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MARAD AND FMC AUTHORIZATIONS

HEARING

BEFORE THE

SUBCOMMITTEE ON MERCHANT MARINE

OF THE

COMMITTEE ON COMMERCE,
SCIENCE AND TRANSPORTATION
UNITED STATES SENATE

NINETY-NINTH CONGRESS

FIRST AND SECOND SESSIONS

ON

REAUTHORIZATION OF THE MARITIME ADMINISTRATION AND FEDERAL MARITIME COMMISSION FOR FISCAL YEAR 1987

MAY 16, 1986

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REAUTHORIZATION OF THE MARITIME ADMINISTRATION AND FEDERAL MARITIME COMMISSION

FRIDAY, MAY 16, 1986

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
SUBCOMMITTEE ON MERCHANT MARINE,
Washington, DC.

The subcommittee met, pursuant to notice, at 10 a.m., in room SR-253, Russell Senate Office Building, Hon. Ted Stevens (chairman of the subcommittee) presiding.

Staff members assigned to this hearing: Brad Gilman, professional staff member, and John Hardy, minority staff counsel.

OPENING STATEMENT BY SENATOR STEVENS

Senator STEVENS. We are holding this hearing today to discuss the necessary authorization levels for the Federal Maritime Commission and the Maritime Administration (MarAd). This hearing will also focus on a number of issues which have come to the attention of this committee in recent months. There have been a series of hearings on the Mariner Fund concept, which I introduced last year. As a result of those hearings, it has become apparent that there is much reason to doubt our Nation's sealift strategy.

One of MarAd's primary responsibilities is the maintenance of the National Defense Reserve Fleet, including the Ready Reserve Fleet. These are ships which are intended to support our troops should the United States ever become involved in a prolonged military crisis.

We are now spending around $100 million a year in the maintenance of these fleets, yet we have been informed these fleets could not be quickly mobilized to respond to a crisis. Even if the RRF vessels are in a state of readiness, there is also a dispute over whether we have the manpower available to crew and manage them.

Today, we are going to hear testimony from John Gaughan, the Administrator of MarAd, and Adm. Walter Piotti, the Commander of the Military Sealift, on the availability of manpower to meet the sealift needs.

I also understand there is now a conflict between the Military Sealift Command and MarAd over which agency should acquire vessels for the RRF. I believe this issue should be addressed in a public forum, and I intend to try to do so today. The question that persists in my mind is why we are spending the money we are spending for the RRF and the NDRF if the problems of mobilization and manning are real. It is my hope that we will be able to explore those issues today, as I indicated.

Senator Inouye?

OPENING STATEMENT BY SENATOR INOUYE

Senator INOUYE. Thank you very much, Mr. Chairman.

The budget before us for the activities of the Maritime Administration would eliminate three traditional programs. Specifically, phaseout of the R&D program, discontinue direct financial support to the six State maritime academies except for student incentive payments to existing students; and effectively, eliminate any new title XI loan guarantee commitments.

So this hearing will afford MarAd an opportunity to explain in more detail why it feels these changes are justified, and also afford an opportunity for those who may not share MarAd's views. It will also give the subcommittee a chance to ask MarAd about some of its other responsibilities, such as administration of our cargo preference laws, the Ready Reserve Fleet, and its assessment of the adequacy of our merchant shipping capacity to support the U.S. economy in time of a global war or regional conflict.

This hearing will also give the subcommittee an opportunity to hear from the FMC, the independent Federal agency which regulates our liner shipping. The Shipping Act of 1984 directs the FMC over a 5-year period to collect and analyze data on the impact of that act on international shipping. The 1984 act made fundamental changes in the way the United States regulates international liner shipping. The data which the FMC is collecting and analyzing are essential to all of us so that we may determine what, if any, improvements in that act are necessary.

Senator STEVENS. Thank you very much, Senator.

Our first witness, and we have three panels today, is the Chairman of the Federal Maritime Commission, Ed Hickey. It's nice to see you back.

Mr. HICKEY. Thank you, Senator.

Senator STEVENS. He is accompanied by Robert Bourgoin, the general counsel; Frederick Trutkoff, the Director of Budget and Financial Management of the FMC; and William Jarrel Smith, the Director of Programs for the FMC.

Do you have a statement, Mr. Chairman?

STATEMENT OF HON. EDWARD V. HICKEY, JR., CHAIRMAN, FEDERAL MARITIME COMMISSION, ACCOMPANIED BY ROBERT D. BOURGOIN, GENERAL COUNSEL; FREDERICK F. TRUTKOFF, DIRECTOR, BUDGET AND FINANCIAL MANAGEMENT; AND WILLIAM JARREL SMITH, DIRECTOR, PROGRAMS

Mr. HICKEY. Mr. Chairman, I would like to submit my formal statement for the record and, with your permission, briefly summarize it.

Senator STEVENS. Please do.

Mr. HICKEY. Mr. Chairman, and members of the subcommittee it is a pleasure to appear before you today to present the fiscal year 1987 budget estimates of the Federal Maritime Commission.

The Commission's budget request for fiscal year 1987 is $11.940 million, which is an increase of $70,000 over 1986. This provides funding for 214 workyears, the same amount of workyears reflected in our 1986 appropriation. I would also note that our request is the same as that provided in the President's budget and is, I believe, sufficient to permit us to meet our responsibilities.

One of the primary responsibilities of the Commission during 1987 will be the continued implementation of the Shipping Act of 1984. As you know, this landmark legislation, which has been effective for almost 2 years, significantly altered the regulation of the ocean shipping industry. Although it is too early to make any long-term conclusions about the impact of the act, it does appear initially to be achieving its intended purposes.

Agreements among carriers are becoming effective much more quickly. Many conferences have consolidated their services. Intermodal service is increasing, as is the use of independent action and service contracts.

Given this new regulatory framework, it has become increasingly important for the Commission to ensure that the 1984 act is being used properly. Therefore, during fiscal year 1987, the Commission intends to initiate a coordinated surveillance and enforcement program which will focus on areas having a significant impact throughout the industry.

We also intend to continue our efforts to consider the feasibility of an automated tariff filing system. An advisory committee made up of representatives from 20 parties directly affected by tariff automation recently met, and will meet two more times this year, to offer its advice to the Commission. In addition, our feasibility study will continue during 1987 with the hope that we can have a pilot system operating by 1988.

The Commission anticipates that the substantial growth in the use of service contracts experienced in 1986 will continue during fiscal year 1987. Accordingly, we must be in a position to adequately review these filings to ensure that they meet all statutory and regulatory requirements.

The Commission will also continue to exercise its authority under section 19 of the Merchant Marine Act of 1920 and take retaliatory action against discriminatory or restrictive practices in our foreign trades. As you know, Mr. Chairman, some foreign governments have taken measures which discriminate against liner operators in our trades which also reduce service options to shippers. The Commission has been very successful in dealing with these situations in the past, but nonetheless, expects that they will continue in the future.

We will, moreover, stand ready to use our authority under section 13(b)(5) of the 1984 act should foreign governments attempt to limit the access of U.S.-flag carriers in the trades between foreign ports.

We will also continue to collect and analyze data on the impact of the act for the report which we must provide to the advisory commission in 1989.

Mr. Chairman, I believe that the Commission's 1987 budget estimate is responsive to our statutory mandate and today's economic realities. I, therefore, urge its favorable consideration.

I would be pleased to respond to any questions you might have.

Senator STEVENS. Mr. Chairman, domestic carriers are subject to a bifurcated regulatory process. If a tariff is structured as a port-to-port rate, the carriers fall under your jurisdiction. Your regulatory process includes a 60-day notice prior to an increase or a decrease in rates, and a discretionary suspension period of up to 6 months for any increase or decrease in rates.

In contrast, the ICC has jurisdiction over tariffs that involve joint through rates, rail and water, or motor and water, and the ICC regulatory process includes rate increases on a 15-day notice period, decreases on a 5-day notice period, and special permission for expedited decreases.

When carriers are subject to strong competition as they are now in the Alaska trade, one carrier can undercut prices on very short notice. Other carriers which are subject to your jurisdiction have traditionally had no real ability to obtain a finding that the rate increase is unjust or unreasonable.

Could you tell us why your agency has different notice procedures then the ICC with respect to competing domestic offshore carriers?

Mr. HICKEY. Well, I think one of the significant differences, Senator, is that the Federal Maritime Commission tends not to give blanket exceptions to these actions. I cannot respond in detail as to the background or nature of the ICC activity, but, if I could defer to the general counsel, I think he could explain the nuances of the law.

Senator STEVENS. I know the nuance of the law. What I am wondering is why that, in and of themselves, breed inequity?

Mr. BOURGOIN. Senator, I think it comes down to a matter of how the two agencies use their special permission authority. The ICC exercises it, as I understand, on a blanket basis, an industrywide basis. The FMC exercises it on an ad hoc basis, believing that that is what is necessary given the good cause requirements of the statute. I think that is essentially the difference.

Senator STEVENS. How can the ICC handle the same subject on a 15-day notice, or a 5-day notice period when you require 60 days?

Mr. BOURGOIN. Well, the 60 days is statutory. That 60 days applies only to increases in rates. All other rate action at the FMC are on 30 days' notice. But I would agree that the ICC does use their special permission authority more generously. We believe that to do so for us would be contrary to the legislative intent.

Senator STEVENS. Have you ever tried to sit down with the ICC to see if during this period of deregulation, we could develop an equitable system of regulation for competing carriers

Mr. BOURGOIN. There have been ongoing efforts with the ICC to do just that and conform our regulation where it is possible. It is not always possible. I believe that some of these adjustments require legislative change.

Senator STEVENS. Well, I would be happy to have the product of some conference between you and general counsel of the ICC to see if we cannot get some indication of what are the impediments in existing law that prevent some uniformity in the regulatory process. At the present time, there is I think an adverse impact on consumers, and they do not quite understand it.

One carrier can rapidly decrease rates to meet competition under ICC jurisdiction, yet those carriers subject to FMC jurisdiction cannot decrease rates as easily, I think there is an instability developing in the domestic offshore trade caused by the conflicts in regulation.

Do you feel, Mr. Hickey, that the two agencies scrutinize the rate proposals with the same intensity?

Mr. HICKEY. Well, I can speak for ours. I think the Federal Maritime Commission certainly does do it with intensity.

Senator STEVENS. Have you ever compared the handling of cases between the two agencies with respect to processing times, and what the track record is concerning the action on rate increases or decreases?

Mr. HICKEY. No, I have not, Senator.

Senator STEVENS. Are you familiar at all with the ICC backlog in this area? Would your agency have the capacity to handle the workload of the ICC if I proposed to the Congress that we consolidate this regulatory responsibility in one agency, rather than having it bifurcated the way it is now?

Mr. HICKEY. My answer to that, Senator, is that under present budget constraints it would be totally impossible for us to do that.

Senator STEVENS. I assume we would move the money over, but I am not sure that—have you ever had any studies to indicate the distribution of the workload between your agency and the ICC they respect to the regulation at the domestic offshore trade?

Mr. HICKEY. No, sir.

Senator STEVENS. Well, for your information, I have asked the GAO to study the issue and to give this committee the recommendations on what can be done. I believe that there are consumers in my State, and perhaps in other States, who are affected by the inability of a carrier to reduce rates at a time when they want to reduce rates. They cannot currently reduce rates because of the delays inherent in your agency's process, compared with the quick adjustments to the competitive situation that is taking place in the Alaska trades, and I think in other domestic trades, for joint/through rates subject to all judisdiction.

Yes, sir?

Mr. BOURGOIN. Senator, may I point out one thing? I think the FMC presently, as a practical matter, regulates a very small fraction of the total domestic offshore trade, either by virtue of the fact that the carriers now file their tariffs with the ICC, or because the carriers are exempt on the basis of their size from FMC rate regulation. So to the extent there is any regulation in this trade, it is for the most part being done by the ICC.

Senator STEVENS. That will come out, I am sure, in the GAO study , and I would welcome your comments. We will make sure you have an opportunity to review them.

Senator Inouye.

Senator INOUYE. Thank you.

Mr. Chairman, when the Congress enacted the Shipping Act of 1984, it did so to ensure stability in our liner trades, and to protect shippers against unjust discrimination. To those ends we expressly reaffirmed our commitment to the open conference system, the tariff filing requirement; and, of course, the prohibition against secret rebating.

As a counterbalance to the increased power given the conferences, Congress also mandated a right of independent action as part of every conference agreement, and authorized service contracts. Tariffs are not of course required for cargo moving under a service contract.

Carriers have I believe made extensive use of independent action. One statistic I have seen indicates that carriers in one of our major Trans-Pacific Conferences took independent action about 30,000 times in a 4-month period; and one major shipper, DuPont, estimated that 75 percent of its worldwide shipments are now moving under service contracts.

I realize the 1984 Shipping Act is only 2 years old, but do you see any danger that the way in which mandatory independent action and/or service contracts are being used could weaken our conference system and/or our tariff filing requirement to the point where they are no longer useful tools for ensuring stability in our trades, and protecting shippers against unjust discrimination.

Mr. HICKEY. I believe it is too early to tell, Senator. My understanding of the act of 1984 is that some of the provisions were not met with total happiness by all parties of interest. A significant provision of the act requires the Commission, at the end of a 5-year period, to provide the Congress with findings under section 18, as to the impact of the act.

Some people today are expressing their concern, but they supported it at that time. I think the answer will be clearer at the end of the 5-year period. The study will be comprehensive and will indicate the total experience to the Congress. But I think it is too early now to judge that.

Senator INOUYE. Speaking of this 5-year study, what have you done in soliciting the industry's views on the impact of this 1984 act?

Mr. HICKEY. Well, Senator, I believe we have made substantial progress, and that is something we are extremely proud of. We have held upwards of 16 meetings with other departments of the Government discussing all of these issues. We have formed a number of study groups, including a carrier advisory study group consisting of 26 members. We have identified the major commodities and routes to be studied, and we have also organized a symposium, which is to be held at the Old Dominion University in Virginia next month, in which there will be many, many participants over a broad spectrum.

I have also recently received a status report from our staff on this very subject and I would be glad to provide [1] that to the committee, if you have an interest.

Senator INOUYE. I would like to receive that, because I would like to know if you are really on schedule now. I gather from some of the members of the industry that they have not been contacted.

Mr. HICKEY. Well, my feeling is that we have encouraged everybody to participate in the study. When people come to us, we have an open-door policy and we have told everybody if they have any disputes or feelings that the act needs correction, we indicate that the corrections will occur down the road as because the Congress provided. The study will be the vehicle to remedy what is or is not wrong. I have not had that feeling, that we have not encouraged participation in the study.

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[1] The report was received for the committee files.

Senator INOUYE. So you feel that it is too early at this time to reach any conclusions?

Mr. HICKEY. That is my feeling, sir.

Senator INOUYE. I do not think any of us on the committee anticipated an average of 24 service contract filings a day. That is an immense number. But I will be looking forward to that report—that is on the assumption that the chairman and I get reelected, which I think we will.

Senator STEVENS. Five years?

Senator INOUYE. Yes. We will be around.

Senator STEVENS. Do we have to wait 5 years?

Mr. HICKEY. Yes, sir. That is my understanding, by law.

Senator INOUYE. We have got 3 more years to go.

Senator STEVENS. If there are things happening that we did not contemplate, up my way we are not used to standing around waiting for the fires to burn out. We are in the habit of going to fight fires. If there is a fire, I would like to know about it. I agree with Senator Inouye—I think there are things happening that we did not contemplate, and that we ought to have some touchstone to deal with it.

Maybe we ought to announce that next year will schedule—next year, one of the two of us will be chairman of this subcommittee; that is fairly clear.

Senator INOUYE. We take turns.

Senator STEVENS. We will join in an announcement that next year this subcommittee will have an oversight hearing on that act, and perhaps convince the Congress that it is time to make some changes in spite of the 5-year provision. Are we agreed?

Senator INOUYE. I agree completely with you, Mr. Chairman. That is why I requested that the status report be submitted so we can look it over.

Mr. HICKEY. I will provide it, sir.

Senator INOUYE. Finally, Mr. Hickey, in looking over a recent Journal of Commerce article (May 13), entitled "ASEAN-U.S. Discuss Shipping Act Trade," it says, and I quote:

> The two-day seventh ASEAN-U.S. dialogue discussed the subject of the control carrier provision of the U.S. Shipping Act, which is affecting ASEAN's shipping lines operating on the U.S. West Coast. ASEAN is the Association of Southeast Asian Nations comprising Singapore, Malaysia, Indonesia, Philippines, Thailand, and Brunei. Both sides agreed that the matter should be pursued with the relevant authorities with a view of resolving the issue.

Now as you know, the State Department opposed the enactment of the Controlled Carrier Act, and inasmuch as the provisions of this law are administered by the FMC, has the State Department conferred with you on this matter?

Mr. HICKEY. It is my understanding, Senator, that the only thing provided by the Federal Maritime Commission to the State Department was a summary of the law as to what one must do to remove itself from the Controlled Carrier Act. It was merely an advisory summary saying this is the law, these are the steps that must be taken, and beyond that it is my understanding that there has been no further discussion on that.

Senator INOUYE. They have not contacted you since the ASEAN meeting?

Mr. HICKEY. No, sir.

Senator INOUYE. I would be personally interested to know what sort of communication and dialog you have with the State Department.

Mr. HICKEY. Absolutely.

Senator INOUYE. Thank you, sir.

Thank you, Mr. Chairman.

Senator STEVENS. Thank you.

Well, we appreciate your statement. I have no questions. Do any of you other gentlemen have any statements or comments to make?

[No response.]

Senator STEVENS. We are happy to have you here, and we will move with dispatch on your bill, Mr. Hickey.

[The statement follows:]

STATEMENT OF HON. EDWARD V. HICKEY, JR., CHAIRMAN, FEDERAL MARITIME COMMISSION

Mr. Chairman and members of the Subcommittee. It is a pleasure to appear before you today to present the Fiscal Year 1987 budget estimates of the Federal Maritime Commission.

With me today are Robert D. Bourgoin, the Commission's General Counsel, Wm. Jarrel Smith, Jr., the Director of Administration, and Frederick F. Trutkoff, the Director of the Office of Budget and Financial Management.

Before addressing our specific budget estimate, I would like to make one point. The Federal Maritime Commission is a regulatory agency. We do not administer any grant programs and, as a result, we exercise very limited discretionary spending. The Commission's budget is strictly an operating budget. Personnel costs, including salaries and benefits, constitute approximately 80 percent of our total budget.

Turning now to our budget estimate for fiscal year 1987. It is in the amount of $11,940,000, and provides funding for 214 total workyears of employment. This is the same amount of total workyears reflected in our fiscal year 1986 appropriation. However, compared to our budget appropriation of $11,870,000 for 1986, the 1987 estimate represents an increase of $70,000. This increase includes $38,000 for personal services and $32,000 for administrative expenses.

Mr. Chairman, I would also note that the amount we are requesting for 1987, $11,940,000, is the same as that provided in the President's proposed budget. In my opinion, approval of our 1987 budget estimate will allow us to meet our responsibilities in an efficient and effective manner.

The budget estimate also reflects the changes which will occur if, pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177), the Commission's 1986 appropriation is reduced by $510,000 to $11,360,000. The Commission has considered a number of options to meet this reduced figure, including the furloughing of employees. We believe that we can achieve these reductions, at least for this year, through savings in non-critical areas, such as travel, training, and limitation on new hiring. In addition, the Commission has recently reorganized several offices to achieve greater efficiency and this should help meet these reduced levels.

Now I would like to address some of the major activities proposed in the 1987 budget.

As you are aware, Mr. Chairman, the Shipping Act of 1984 has significantly altered the regulatory scheme over the ocean shipping industry. In essence, it has struck a balance between shipper and carrier interests operating in our waterborne foreign commerce. The Commission is mindful of this balance and will strive to maintain it during the coming years.

Although it is too early to make any long-term assessment of the impact of the Act, early indications are that it is producing its intended results. Most agreements filed with the Commission are becoming effective at the conclusion of the 45-day waiting period and the Act has succeeded in doing away with the litigious and time-consuming procedures attendant to regulation under the 1916 Act. There have also been several consolidations of previously existing conferences, and, as a result, the Commission has fewer agreements on file. In addition, many conferences which previously did not have intermodal authority have now obtained that authority and are offering through intermodal service to an increasing number of inland United States points.

Shippers are also beginning to take advantage of the 1984 Act. Several thousand service contracts have been filed with the Commission and the right of independent rate action, mandated by the Act for conference members, has been frequently exercised.

What we have experienced so far are the initial, cautious steps of an industry acclimating itself to a new era. However, the severe overtonnaging which exists in most U.S.-trades makes any attempt to gauge the long-term impact of the Act somewhat more difficult. Nonetheless, now that the industry has begun to work together, we expect these early trends to accelerate.

As you know, carriers now have much more flexibility to structure their commercial arrangements and can quickly effectuate these relationships. However, that flexibility is not completely unfettered. To ensure against possible abuses, Congress designed a series of prohibited acts to guide the conduct of those involved in our waterborne foreign commerce. For the 1984 Act to work as envisioned, these activities must be eliminated to the fullest extent possible. Accordingly, in fiscal year 1987, the Commission intends to initiate a coordinated surveillance and enforcement program to be administered by the Bureau of Investigations. This program will focus on areas which can have significant impact throughout the industry, rather than simply reacting to complaints of potential violations as they arise.

During fiscal year 1987, the Commission will continue its efforts to review the feasibility of an automated tariff filing and information system to replace the Commission's manual system for receiving and filing tariff materials. The Commission's present system is considered by many to be antiquated. Some carriers today have to transfer their tariff information from electronic media to hard copy just so they can file it with the Commission.

An advisory committee, composed of representatives from the agency, the information industry, and elements of the shipping public, has been established to obtain input from all parties affected by tariff automation. The Committee recently held its first meeting and will meet two more times this year.

A study is also under way to identify and analyze available alternatives to automating tariffs and to weigh the technical and economic feasibility of an automated system. After the completion of the feasibility study, the Commission hopes to begin the systems design and development phase in 1987, so that a pilot system can be operational by 1988. The Commission is requesting funding for this effort in the amount of $180,000. Our ultimate goal is to develop a system that meets the regulatory and enforcement needs of the Commission, is compatible with commercial uses of tariff data, is more accessible to users, and seeks to recover costs incurred in the development and operation of the system by means of user fees, to the extent permitted by law.

We are also striving to achieve greater processing efficiencies in all our functions through increased automation. Eventually, we would like to automate all processing functions within the Commission.

The 1984 Act authorizes the use of service contracts in our foreign commerce and subjects that use to the oversight of the Commission. All such contracts and statements of their essential terms must be filed with the Commission and the essential terms must be made available to similarly situated shippers. Initially, use of serviced contracts started slowly. During the last quarter of fiscal year 1984, we received only 160. However, the use of service contracts has since increased dramatically. We now have over 4,500 filed with us and they are arriving at the rate of 24 a day. The Commission must review these filings to ensure that they comport with statutory and regulatory requirements. In addition, the Commission must actively monitor the use of service contracts to ensure that all their terms and conditions are met. We anticipate that the use of service contracts will continue to grow during fiscal year 1987.

The Shipping Act of 1984 also requires that the Commission collect and analyze information regarding the impact of the Act on the international ocean shipping industry. The information to be collected relates to increases or decreases in tariffs, changes in common carrier services available to ports, the number and strength of independent carriers, and the cost of major regulatory proceedings before the Commission.

The staff has made considerable progress in fulfilling this mandate. Significant amounts of data have already been collected and the staff has held 16 meetings with the other departments and agencies with which we are to share the data. The staff is also receiving considerable assistance from various industry groups, including shippers, carriers, and port authorities.

Under the provisions of the 1984 Act this information will form the basis of the report which the Commission will make to the Advisory Commission on Conferences in Ocean Shipping, due to be established in late 1989.

As you know, Mr. Chairman, the Commission also has the responsibility of administering section 19 of the Merchant Marine Act of 1920. This statutory provision allows the Commission to take retaliatory action against unfavorable conditions to shipping in our foriegn trades. It has proven to be particularly useful in addressing discriminatory or restrictive practices of foreign governments.

Some foreign governments have enacted laws, decreases, and other cargo preference measures, or implemented onerous trade restrictions on oceanborne cargos, which discriminate against carriers, including U.S.-flag operators, in the U.S. liner trades. These practices have, in some instances, reduced carrier access to certain trades and also served to reduce the options of shippers to obtain the best available service at the most favorable rates, thereby adversely affecting the U.S. export and import commerce. Complaints about such discriminatory activities have resulted in Commission actions designed to remove the offending conditions. The Commission has been increasingly active in this area and expects this to continue in the coming year.

The cargo preference scheme of foreign nations may also serve to limit the activities—or bar the presence—of U.S.-flag carriers in the trades between foreign ports. Under its new authority contained in section 13(b)(5) of the 1984 Act, the Commission can protect our carriers seeking to enter the cross-trades. While this authority has yet to be applied, it represents a significant addition to the Commission's powers to safeguard U.S. foreign-trade interests. To date, no petitions have been filed under section 13(b)(5) of the Shipping Act of 1984. The Commission, however, remains vigilant. Last year, representatives from U.S.-flag carriers were contacted to assure them that the Commission plans to preserve and protect U.S.-flag carriers' competitive access in foreign trades. Meetings were held with these representatives to identify potential trouble spots where 13(b)(5) action may be necessary.

Mr. Chairman, the Commission and its 214 employees have the responsibility for regulating the transportation of cargo by liner operators in both the United States foreign commerce and our domestic offshore commerce, an industry which accounted for over $181 billion of liner cargo in 1985. Administering the shipping statutes over such a large and vital industry is a significant undertaking. The Commission's 1987 budget estimate is responsive to both our statutory charter and the economic realities we all face today. It will allow us to get the job done. Mr. Chairman, I urge your favorable consideration of our submission.

Senator STEVENS. Our next panel is John Gaughan, the Administrator of the Maritime Administration, accompanied by Elaine Chao, the Deputy Administrator; Richard Bowman, the Associate Administrator; Earnest Hawkins, the Associate Administrator; and Lee Santman, the Ship Operations Acting Director. We also would like to have Rear Admiral Piotti, Commander of the Military Sealift Command of the Navy, join this panel.

We are happy to have you here, Mr. Administrator. I think this is the first time Ms. Chao has appeared before the committee. We appreciate your bringing your chief assistants with you, and we look forward to hearing from you and Admiral Piotti.

Mr. Gaughan.

STATEMENT OF HON. JOHN A. GAUGHAN, ADMINISTRATOR, MARITIME ADMINISTRATION, DEPARTMENT OF TRANSPORTATION, ACCOMPANIED BY ELAINE LAN CHAO, DEPUTY ADMINISTRATOR; RICHARD ED. BOWMAN, ASSOCIATE ADMINISTRATOR, MARITIME AIDS; ERNEST HAWKINS, ASSOCIATE ADMINISTRATOR, ADMINISTRATION; AND LEE SANTMAN, SHIP OPERATIONS ACTING DIRECTOR

Mr. GAUGHAN. Mr. Chairman, I do have a prepared statement which I will submit for the record and, if I could, I would just like to summarize that for the committee.

I appear here today with my deputy and staff on behalf of the authorization request of the Maritime Administration. Before I get into the specifics of that authorization, however, Mr. Chairman, I would like to make mention of four legislative proposals that we have made in an effort to further promote the U.S.-flag merchant marine.

Those requests are legislation which will authorize ship operators to build or acquire vessels overseas without loss of eligibility for operating differential subsidy. If we are to have a strong merchant fleet available in time of a national emergency, this is a critical requirement, and that has been introduced in the Senate as S. 1481.

The second legislative proposal is, the legislation that will give immediate eligibility to vessels not built in the United States but brought under the U.S.-flag to carry cargoes for the U.S. Government. This legislation has been introduced as S. 1482. We look forward to hearings on both those bills.

The third legislative proposal is, the draft legislation to eliminate double, subsidy by providing for proportional payment of ODS where military cargo is transported, and where other preference cargos are transported at above-world-freight rates. U.S.-flag operators who accept this reduction in ODS would be afforded a more flexible alternative to the formal hearing procedure under section 605(c) of the Merchant Marine Act for the operation of subsidized vessels on essential trade routes. This legislation has been proposed but not yet introduced.

Finally, Mr. Chairman, I will make mention of our efforts to extend the partial immunity from the automatic stay provisions of the bankruptcy code to creditors with preferred ship mortgages, which would enable the Secretary of Transportation to foreclose more easily on the preferred mortgage of a title XI vessel if the owner defaults on a guaranteed loan, and I particularly appreciate the hearing that you afforded us in that regard and hope that we can move forward on that legislation.

We believe that these legislative proposals are crucial to the continued well being of the U.S.-flag merchant marine and a strong national defense posture as well as sound fiscal policy.

Mr. Chairman, the specifics of the authorization request are for a total of $388,193,000 for the Maritime Administration for fiscal year 1987; $320 million of that is for ODS payments; $5.5 million for research and development activities; and $62,693,000 for operations and training activities.

If I could just briefly highlight those, the $320 million in ODS is sufficient to provide continuing support for 73 liners and 17 bulk vessels under existing contracts.

In the area of research and development, the request of $5.5 million, a decrease of almost $4.5 million from the 1986 appropriation, is intended to be used during a transition period to no Federal funding for these activities. The administration proposes to rely more heavily on private sector funding beginning in 1987.

In operations and training, the $62,600,000 and-some-odd thousand are divided into maritime education and training expenses, national security support capabilities, and other O&T programs. Maritime education and training provides for the operation of the U.S. Merchant Marine Academy, assistance to the six State maritime academies, and additional training. And $20 million of that, roughly, is requested for continued operation of the Merchant Marine Academy.

The $1,035,000 is requested for financial assistance to the State maritime academies, and is limited to providing student incentive payments to cadets currently receiving such payments. Due to the continuing oversupply of merchant marine officers and the urgent need to reduce Federal spending, funds for Federal support in the form of direct payments, which is $100,000 in direct payment to each school, and maintenance of school ships have not been requested. The Maritime Administration will work with any of the schools that are interested in continuing the use of the ships, but the schools will be responsible for the cost of maintaining and operating of the vessels. Even with reduced Federal support, there will be an adequate officer work force available to man U.S. merchant ships.

For the national security support account, we have requested $13,421,000. That account funds expenses associated with the national defense reserve fleet, the NDRF, including the RRF ships, and emergency planning and operations program. Each program is directly supportive of the Maritime Administration's national security responsibilities. Almost $12 million of it is requested for the NDRF program which provides for the preservation, maintenance, and security of the ships in the NDRF and for the administration of the ship transfer and ship disposal programs.

The estimate includes almost $4 million for initiation of a multiyear program for capital investments including dredging, facility alterations and maintenance and replacement of support craft. This request is a high-priority item for my agency in order to carry out its national security role vis-a-vis the NDRF, and for this reason we are particularly concerned that it was omitted in the House bill H.R. 4175.

Finally, Mr. Chairman, consistent with the President's budget submission the administration's fiscal year 1987 budget request proposes no new title XI guarantee commitments in 1987 and beyond. I am ready to work with the committee regarding any issues which may arise as a result of the President's budget. Although many may believe that the reductions in actions we are proposing are very painful, we think they are necessary in the context of the Federal budget problem and are grounded in a solid policy framework reflected in our legislative proposals.

I believe the proposed budget provides for the continued fostering of a strong and competitive U.S.-flag merchant marine.

That concludes my prepared statement, Mr. Chairman. The administration has requested that I provide for you our views on the marked up version of the House authorization. I will provide those views under separate cover, and I would be pleased to answer any questions that you or the members of the subcommittee may have.

Senator **Stevens**. Thank you.

Admiral Piotti, do you have a statement?

STATEMENT OF REAR ADM. WALTER T. PIOTTI, JR., COMMANDER, MILITARY SEALIFT COMMAND, DEPARTMENT OF THE NAVY

Admiral **Piotti**. Yes, Mr. Chairman, I do, and I would like to provide it for the record and give you a brief summation now.

Senator **Stevens**. Please. The statement will be printed in the record.

Admiral **Piotti**. The Secretary of the Navy is the single DOD manager for ocean transportation, Sealift. SECNAV, in turn, has designated the Military Sealift Command as the single manager operating agency for ocean transportation, Sealift. Accordingly, I am tasked with the day-to-day operation and direction of America's Strategic Sealift Program.

The Strategic Sealift Program is a multifaceted program. Among those facets is the RRF, a dedicated and growing part of both that program and planned Navy force structure. As the projected capacity of available U.S. commercial assets declines, the RRF is designed to expand to compensate in part for that decline as it relates to defense wartime requirements. Beyond that compensation, the RRF must also be viewed as a vital adjunct to our war fighting capability.

The RRF today consists of 73 ships with an additional 16 currently being processed. Of the 73 ships in the RRF, 31 were NDRF ships, mainly older vessels put into class and upgraded to improve their readiness; 30 additional ships were purchased in fiscal years 1984 and 1985 with money appropriated to the Navy; the 12 other RRF ships are former Military Sealift Command ships. The RRF force strength is projected to stand at 119 ships by 1991, with the possible addition of 30 more ships as the recommendations of the DOD tanker study are pursued.

The Navy is responsible for providing strategic sealift to meet the U.S. defense requirements, and has been the sole source of funds for procurement and maintenance of the RRF since 1982. The Navy has programmed funds to continue procurement of RRF ships until force goals are achieved. The Navy also is committed to funding modernization and maintenance of the RRF over that force's life cycle.

Based on the projected size and growing complexity of the RRF, it is appropriate that the MOA between MarAd and the Navy reflect that division of responsibility which would best serve the Government now and into the immediate future.

The exact roles of MarAd and the Navy in this revision of responsibilities are under active discussion, with the expressed purpose of determining how best to support the continued growth and effectiveness of the RRF.

In this time of fiscal belt tightening and shortened response time, continuing evaluation of these roles is prudent.

As to the second topic that I was asked to discuss today, the DOD response to the manpower pool available to the Defense Department to meet sealift needs in time of national emergency is currently under study within the Navy, with participation by MarAd and the Coast Guard. We anticipate that the study will be completed in early June, and I will be glad to provide it for the record after it is completed, together with any recommendations which might occur as a result of any projected shortfall.

That concludes my statement, Mr. Chairman.

[The statement follows:]

STATEMENT OF REAR ADM. WALTER T. PIOTTI, JR., USN, COMMANDER, MILITARY SEALIFT COMMAND

Mr. Chairman, members of the Subcommittee on Merchant Marine of the Senate Committee on Commerce, Science and Transportation, I thank you for the opportunity to participate in this hearing on the FY 87 authorization for the Maritime administration.

In particular, I would like to address the specific issues of Navy's and Marad's roles in administering the acquisition, maintenance and control of the ready reserve force ships, and the status of the merchant manpower pool available to meet DOD sealift needs in time of national crisis.

The Secretary of the Navy (SECNAV) is the DOD single manager for ocean transportation (Sealift). SECNAV, in turn, has designated the Military Sealift Command as the single manager operating agency for ocean transportation (Sealift). Accordingly, I am tasked with the day to day operation and direction of America's Strategic Sealift Program. That program is multifaceted. The RRF is a vital and growing part of the sealift program and the Navy Force structure. As the projected capacity of our available commercial assets decline, the RRF is designed to expand to compensate in part for that decline as it relates to defense wartime requirements. Beyond that compensation, the RRF must also be viewed as a vital adjunct of our warfighting capacity.

The NDRF was created by section II of the Merchant Ship Sales Act of 1946, 50 App. U.S.C. 1774. The RRF was established in an MOA between the Navy and Marad in 1976 which was superseded by the current MOA dated 27 October 1982. This agreement provides Navy Funding as a means to procure and upgrade RRF ships for strategic sealift. In FY 1986 about 50 million dollars of Navy Funding will be spent for these purposes. The RRF was established specifically and solely for the purpose of providing a strategic reserve to satisfy defense sealift requirements that could not be met by the U.S. commercial fleet or the effective U.S. controlled or MSC fleets or the remainder of the NDRF. The RRF has, of necessity and with the full support of Congress, grown over the years as the U.S. and EUSC commercial fleets have declined—in order to protect overall U.S. defense strategic sealift requirements.

The RRF consists of 73 ships with an additional 16 currently being processed. Of the 73 ships in the RRF, 31 were existing NDRF ships—mainly older vessels put into class and upgraded with Navy funds to improve their readiness. Thirty additional ships were purchased in FYs 1984 and 1985 with money appropriated to the Navy for strategic sealift; and subsequently upgraded by Marad using Navy funds to improve their military usefulness. Even though recently funded with Navy dollars, all these vessels traditionally are documented by the Coast Guard, and Marad made the agent of record. Twelve other RRF ships are former Military Sealift Command ships. The RRF force strength is projected to stand at 119 ships by 1991, with the possible addition of 30 more ships as the recommendations of the DOD tanker study are pursued.

The Navy is responsible for providing strategic sealift to meet U.S. defense requirements, and has been the sole source of funds for procurement and maintenance of the RRF since 1982. Navy has programmed funds to continue procurement of RRF ships until force goals are achieved. The Navy is also committed to funding modernization and maintenance for the RRF over that force's life cycle.

Based on the projected size and growing complexity of the RRF, it is appropriate that the MOA between Marad and Navy reflect the division of responsibility which would best serve the Government now and into the immediate future.

The exact roles of Marad and the Navy are under active discussion with the express purpose of determining how best to support the continued growth and effectiveness of the RRF. In this time of fiscal belt-tightening and shortened response to time, continuing evaluation of these roles is prudent.

A DOD response to the second topic regarding the state of the merchant manpower pool available to the Defense Department to meet sealift needs in time of a national emergency must be deferred.

This deferred response is occasioned by the fact that the Navy, with imput from Marad and the U.S. Coast Guard, is studying precisely this question. The study is expected to be completed early this summer, at which time its conclusions could be provided for the record if desired.

This manpower availability versus requirements study, being conducted by the Office of the Chief of Naval Operations, is the most comprehensive study to date regarding the availability of seafarers to fulfill our defense strategic sealift function in time of war, both now and in the future.

Opinions regarding availability of an adequate manpower pool to meet a contingency are many and diverse. Accordingly, appropriate steps have been taken to collect and analyze relevant data from all sources and participants. The study hopefully will resolve questions as to the number of mariners available to crew the projected number of ships necessary to meet today's and the future's wartime military sealift requirements.

I thank the chairman and the committee for the opportunity to express the Navy's views on the RRF and the ongoing manpower study.

Senator STEVENS. Thank you very much.

Mr. Administrator, as I understood your comments, the dredging moneys in the national security account are related to the Ready Reserve Fleet?

Mr. GAUGHAN. It is related to the whole NDRF program, Mr. Chairman. The RRF is viewed as a subelement of the NDRF and, while the priority is directed at these fleeting sites at James River, and Beaumont, and California, certainly at Beaumont without the dredging the newer vessels acquired for the RRF would not be able to be moved in and out of there because of the depth of the channel in particular at Beaumont.

Senator STEVENS. How many of our vessels are there?

Mr. GAUGHAN. There are roughly 163.

Senator STEVENS. Is that private dockage?

Mr. GAUGHAN. No; they are Government facilities, Senator, where we have Government employees who are responsible for maintaining the dehumidification and whatever upgrading work or preservation work needs to be done.

Senator STEVENS. Is this the area that costs us roughly $100 million?

Mr. GAUGHAN. No, Senator.

Senator STEVENS. What is the total maintenance costs for the Ready Reserve and National Defense Reserve Fleet?

Mr. GAUGHAN. Roughly $13 million, sir.

Senator STEVENS. That is for the dredging.

Mr. GAUGHAN. No; the dredging request is only for roughly $4 million, sir.

Senator STEVENS. That is what the House took out right?

Mr. GAUGHAN. That is correct.

Senator STEVENS. Have you dredged there before?

Mr. GAUGHAN. I believe that we have. Certainly at least one of these requests goes back to 1982.

Senator STEVENS. In order to preserve the accessibility of the reserve fleet through this dockage, do we have to dredge the area?

Mr. GAUGHAN. Yes, sir. I have a need for dredging at the James River Reserve Fleet between the operating docks and the moored ships, the Beaumont Reserve Fleet entrance where it is restricted to 17 feet at oar water. It is rehabilitation and upgrade of electrical services at Beaumont, TX, installation of new mooring stakes at the Beaumont Reserve Fleet, and procurement of crane barges in the three reserve fleets which are what I would call antiquated hand-me-down equipment that has served their purpose.

That, Mr. Chairman, the $3,855,000, represents one-half of the cost. It is my understanding that OMB has instructed that the other half be shared by the Navy.

Senator STEVENS. I understand there is a dispute in the views between the two agencies represented in this panel as to the availability of merchant marine manpower in the event of a national emergency. I want to ask each one of you: Do we currently have an adequate pool of reserve officers and merchant seaman to operate this sealift, to manage it, and to put it to sea in times of national emergency? Mr. Gaughan.

Mr. GAUGHAN. Mr. Chairman, in my opinion there are adequate numbers of merchant marine officers and men to meet the domestic peacetime needs of the merchant fleet, and that in a time of national emergency there would be what appears to be an adequate number of officers. There is concern about unlicensed people, and we are working with the Navy on that study to address the mobilization sealift requirements.

Senator STEVENS. Admiral, what is your opinion about that?

Admiral PIOTTI. My personal opinion is we do not. Because of this diversity of opinions that exist between the Navy and MarAd, we are studying the manning issue to ascertain wherein the facts lie. We are working with the Coast Guard to determine how many licensed personnel are out there, and we also intend to work with the unions to determine how many people currently are sailing on those licenses. We should ascertain wherein the truth lies on our real ability to man the necessary shipping and come up with alternatives to resolve any shortfall that exists, should there be any.

Senator STEVENS. What is the timeframe on that study?

Admiral PIOTTI. The study should be completed by the end of June, and the alternatives, once the outcome is known, will be put together in short order. So I would expect something to go forward in early summer.

Senator STEVENS. I understand that in the past the Maritime Administration has carried out the administrative responsibilities for acquisition of vessels for the Ready Reserve Fleet. Is that correct?

Mr. GAUGHAN. That is correct, Mr. Chairman. To date we have executed the purchase of 43 ships for the Ready Reserve Program.

Senator STEVENS. And how do you derive that authority?

Mr. GAUGHAN. That authority derives from the Merchant Ship Sales Act which established the NDRF for coequal commercial and defense purpose in support of that. In recognition of the dwindling size of the commercial fleet, by memorandum of agreement first set out in 1976 there was a subset of the NDRF, the RRF, established which originally was vessels that had been in the Government's, either NDRF or out of MSC, which first went into being, and since 1982 there have been acquisitions now using Navy money, but managed and carried out by the Maritime Administration to acquire the additional assets.

Senator STEVENS. If I understand you, Admiral, you are saying it is appropriate that the MOA between MarAd and the Navy reflect the division of responsibilities which would best serve the Government now and in the immediate future, and that the exact roles of MarAd and the Navy are under discussion with the express purpose of determining how best to support the continued growth and effectiveness of the RRF.

I think that states your opinion. Where in your statute do you have express authority to acquire vessels for the RRF, Mr. Gaughan?

Mr. GAUGHAN. Our view, Senator, is that the RRF is part of the NDRF; that it is implicit in the authority granted to the Secretary of Transportation to have civilian control of those assets which would be used by any agency of the Government in time of national emergency, similar to the Korean war, the rebuilding of Europe, and Vietnam.

The RRF as an entity exists as a result of the memorandum of agreement that was executed. But in my opinion, the RRF, you could call it whatever you wanted, you could call it the Stevens Navy, if you will, sir, but it is part of the NDRF, and the responsibility for the administration and planning——

Senator STEVENS. Well, the Stevens Navy would not be tied up at a dock, Mr. Gaughan.

Mr. GAUGHAN. Neither would the Gaughan Navy, sir.

Senator STEVENS. I just wonder, Are you budgeting any money in this bill before us for acquisition of vessels?

Mr. GAUGHAN. In 1982——

Senator STEVENS. I am talking about now, in this bill. Is there any money in this bill for acquisition of vessels?

Mr. GAUGHAN. No, sir.

Senator STEVENS. Well, Admiral—I too have in a prior life been seated at the witness table and remember well the gags imposed on me. Are you ungagged today on this subject?

Admiral PIOTTI. Well, we have to qualify what "ungagged" means. Will I speak my mind? The answer is, "Yes."

Senator STEVENS. Do you have a cleared position from the Navy in terms of this dispute?

Admiral PIOTTI. Relative to?

Senator STEVENS. The question of the role of your portion of the Navy and MarAd over this ready reserve force.

Admiral PIOTTI. Well, as far as the Navy is concerned, the Navy is spending about one-half billion dollars a year for the Ready Reserve Fleet.

Senator STEVENS. A half billion?

Admiral PIOTTI. Yes.

Senator STEVENS. I thought it was $100 million.

Admiral PIOTTI. No. For the acquisition of ships in 1986, $333 million was appropriated. To maintain the RRF costs about $1 million per ship per year. Breakout costs constitute in the remainder. So, in total, there is about one-half billion dollars this year—an amount of money that exceeds MarAd's total budget. It is money appropriated by Navy for Sealift for war fighting capability. That is in recognition that in war, 95 percent of our dry cargo and 97 to 99 percent of the POL required to support any conflict must flow by sea.

Therefore sealift is a vital adjunct to the war fighting capability of the Nation. That is why it is funded under the Defense Department appropriation.

Senator STEVENS. For the life of me, I have never been able to understand the difference in philosophies between the Air Reserve Fleets and the sealift reserve fleets. The airlift reserves are out flying and carrying passengers every day, and they are built to the specifications of the Department of Defense. But, the sealift fleets are tied up at the dock, and they are vessels surplus to the civilian sector.

We are now at the point where we no longer have any civilian vessels, because no one can afford to operate them because we are spending all our money buying ships to tie up at docks.

Admiral PIOTTI. Well, you can look at it another way, Senator; that is, that what does not exist in the merchant fleet, and we most strongly advocate a strong merchant fleet because there is a cost-avoidance in a strong merchant fleet; ships we do not have to procure with the taxpayers' money.

Senator STEVENS. How much——

Admiral PIOTTI. What does not exist out there in the commercial world to support our sealift requirements has to be owned by the Government because of the time factors and response times required to provide the material and supplies for the troops airlifted into a conflict area.

Senator STEVENS. Are you responsible for the maintenance budget for this?

Admiral PIOTTI. Yes, indirectly.

Senator STEVENS. How much is the maintenance budget for the ships that are under your command?

Admiral PIOTTI. $1 miilion per year per ship. About $75 million.

Senator STEVENS. And how much do you spend for maintenance, Mr. Gaughan?

Mr. GAUGHAN. In the NDRF it is in the neighborhood of $8 million.

Senator, I think it is important to understand that this program has operated with the Maritime Administration drawing on its expertise that acts as the Navy's agent, as the procurement agent, as the contracting agent overseas and carries out the maintenance and repair that is required, and manages the general agent agreements which are agreements with private operators to crew these ships when the Navy either has a no-notice breakout to exercise these, or if you were to go into a state of rising national emergency where there was a need for them to be broken out.

So of the—the Admiral mentioned $500 million, approximately, and I would correct this for the record, but approximately $216 million of that was handled by MarAd in the contracting process for the last 13 ships, and there is an additional, I am going to estimate, $50 million for the maintenance and repair of those vessels in the RRF.

Senator STEVENS. Well, there is no use belaboring it here. We are about ready to lose the money for the Mariner concept. That is clear. And yet it appears we are spending more money to keep vessels tied up at the dock than to keep them busy, manned, and fully operational as part of a ready reserve concept similar to the Air Reserve Fleet.

One of these days we are going to have to mandate that, I guess, but as long as the defense committees maintain the feeling that it is in their jurisdiction to determine how many ships are tied up, I guess we cannot do much about spending money to keep the vessels operating in the civilian part of the economy.

Did I ask you, Admiral, before I get off that subject, what is it the Navy wants with respect to acquisition for the RRF? Not the Navy, what is it you want in terms of these ready reserves? You are managing this thing from the defense point of view.

Admiral PIOTTI. Well, I believe in the wisdom of doing away with as much layering as possible to save management costs in executing any program. With MarAd as our agent, MarAd passes off MSC's taskings to the general agent who happened to be chartered by him. We reimburse MarAd for these pass through management costs. I estimate we can save about $20 million a year if we do it directly.

Mr. GAUGHAN. Mr. Chairman, I would like to make just one observation. I do not intend to get into an outright brawl with my good friend next to me, but as an example of MarAd's capabilities in managing this program, in this most recent ship acquisition as we have negotiated contracts with three operators we have saved almost $10 million from what the original contract prices were. That is 12 ships. It is a savings of $9.8 million. And we have also gotten six CB hopper barges at no cost.

I think that the expertise of my agency is certainly doing a very good job in managing this program for the Navy, and I will put them up against anybody. I do not think the Military Sealift Command has the internal capability at this point of just taking this over without having to draw on outside resources, or whatever, and I have that expertise in hand, and it has worked well up to this point.

Senator STEVENS. This is an interesting dispute, gentlemen.

As part of this package, MarAd seeks an exemption from the automatic stay proceedings of the bankruptcy code. The tax bill, I am informed, has a series of proposals by the Senate Finance Committee to eliminate tax shelters. MarAd really seeks this flexibility in order to have the capability of determining between legitimate maritime concerns and those formed for tax purposes.

Mr. Gaughan, can we not drop that request for an exception now that the Finance Committee has decided to eliminate the tax shelter concept from our code?

Mr. GAUGHAN. Mr. Chairman, the request we have for changes to the bankruptcy code go very specifically to the management of the existing portfolio. The purpose of the title XI program has not been to shelter income, and changes in the tax law certainly might affect the future attractiveness of using title XI to those interested in sheltering income.

But I do not see where those changes affect the concern and the need we have for the lifting of some relief from that automatic stay provision in managing the present portfolio.

Senator STEVENS. It is my understanding that the tax bill proposes to eliminate tax shelter abuse of limited partnerships and will restrict losses to those investors who are materially involved in the management of the company and the day to day business of the company.

If that is the case, then why do you need the power to determine between a legitimate maritime concern and one formed for tax purposes?

Mr. GAUGHAN. Senator, when we look at a title XI application we are looking at is as it relates to maritime enterprise and whether it is going to benefit the maritime industry and not necessarily at what the tax consequences are.

One of the requirements of the title XI application is that management have the requisite skill to carry out the function. Certainly, limited partnerships are and have been one of those forms put together in order to manage ships and all, and many limited partnerships have worked very well. I would be remiss if I didn't indicate that there are certainly—I have in my own personal experience now in dealing with title XI defaults seen where there were limited partnership agreements that apparently were not—their main purpose was not to foster maritime enterprise.

But that is not the overwhelming basis or goal of that title XI program, sir.

Senator STEVENS. Senator Inouye, I apologize for taking so long. I have a lot more questions, but I will submit them.

Senator INOUYE. Not at all.

Mr. Gaughan, the bill you propose includes a provision "to make explicit that ODS funds can be used to terminate monetary payments in outstanding ODS contracts." Do you have any specific ODS buyouts in mind?

Mr. GAUGHAN. No. I do not, Senator. And I really do not have any specific buyout proposals pending before me. I would like to point out that the efforts of the liner industry to come to agreement on a unified approach to a reformed ODS system continues.

There has been a hearing, at which I testified in the House, where I indicated the administration's willingness to participate in a review of that program with an eye toward supporting meaningful ODS reform, which would hopefully put everyone at the same starting gait so we could get on with further promotion of the industry.

Senator INOUYE. By proposing this provision, are you recognizing that MarAd needs additional legislative authority to enter into ODS buyouts?

Mr. GAUGHAN. Senator, I think it is simply an effort to make explicit that it is there.

Senator INOUYE. As you know, there are those who argue that you do not have the authority at the present time. But you feel you have authority at this time?

Mr. GAUGHAN. Senator, that has been one of those elusive issues that I am not sure. Reasonable men will disagree on on both sides.

I do not have a clear legal opinion from competent authority one way or the other.

Senator INOUYE. I have been listening to the colloquy here among the Admiral and you and our chairman on the Reserve Fleet. Would MarAd favor an amendment to this bill which would make clear that the ready reserve component of the NDRF is the responsibility of the Secretary of Transportation?

Mr. GAUGHAN. Senator, we certainly feel that it is our responsibility now. But if it would in fact put an end to this controversy to make it explicit, yes, I would support that.

Admiral PIOTTI. But I ask, Senator——

Senator INOUYE. So you would favor that provision?

Admiral PIOTTI. May I ask, Senator, if that would include the funding requirements for the RRF?

Senator INOUYE. That is in the Navy at the present time.

You would be opposed to this House provision?

Admiral PIOTTI. That provision provides indirect control of Navy funds. Because of the response times required for the RRF and the responsiveness demanded in any future conflict, we cannot tolerate delay. And therefore, because we cannot accept the delay in using another agency to get to the operating company who will ultimately operate these ships, we think we need direct, rather than indirect, control of the RRF.

Senator INOUYE. I suppose we can spend hours debating this. It would be helpful, Mr. Gaughan and Admiral, if you could submit to this committee a rather detailed memo on why you favor the House provision and why you do not favor the House provision. Otherwise we will be here for several hours discussing that.

Senator STEVENS. Would you care to set a time limit on that? There is no rush, really. We are going out on recess now. I would like to see us mark this up a week from next Tuesday.

Senator INOUYE. If we could have it next Tuesday?

Senator STEVENS. No, a week from next Friday.

Senator INOUYE. A week from today. Today is the last day of the week.

Senator STEVENS. Two weeks from today.

[The following information was subsequently received for the record:]

Subsequent to this hearing, all but two issues with regard to the RRF have been resolved by the Navy and the Maritime Administration. Resolution of these remaining issues will be pursued by the two departments. Any legislative changes therefore would be unnecessary.

Senator STEVENS. I made a mistake. We are having a markup 2 weeks from next Tuesday, so we would like to have it 2 weeks from today.

Senator INOUYE. MarAd is charged under the law with administering our cargo preference laws. Are all of the programs subject to our preference laws in compliance with them?

Mr. GAUGHAN. Mr. Chairman, without having checked specifically, I would say no, we do not have compliance in all respects. I say that because of my experience recently with efforts on the part of my staff to identify in the Defense Department and elsewhere those types of movements or shipments that are subject to clear with like the Defense Logistics Agency. The requirement is supposed to be part of their contracts and it has not been met in all cases.

I think in that regard, however, we have made tremendous strides in identifying agencies and putting them on notice of the cargo preference requirement, and have been getting good compliance. But, subject to my staff telling me I was wrong, I am sure that all of those programs are not in compliance.

Senator INOUYE. That is the impression we have on the committee. Could you submit a memo identifying these programs that you feel are not in full compliance?

Mr. GAUGHAN. To the extent that we know, yes, sir, we will. And we will also, if you would like, give you some representative examples of the efforts that we have under way to put agencies on notice and bring them into compliance.

[The following information was subsequently received for the record:]

The latest year for which we have a final accounting of cargo preference compliance is Calendar Year 1984. In CY 1984, one program, the African Food Assistance Program, administered by the United States Department of Agriculture, was not in compliance with the 50 percent U.S.-flag requirement of the Cargo Preference Act. A total of 49,057 metric tons of cargo was shipped under this program, and this total amount was transported by foreign-flag vessels, although U.S.-flag vessels were available.

It should be noted that USDA was in compliance on their other programs, with P.L. 480 Title I at 51 percent U.S.-flag, and other miscellaneous USDA programs at 52 percent U.S.-flag.

Senator INOUYE. I appreciate that, sir.

The third panel, the panel that follows you, will testify that: "The Nation's Ready Reserve Fleet is being dispersed and the dispersal sites will cost about $250,000 per ship for dock rental and services," and that State maritime academies are ready sites for such distribution of RRF ships that can serve dually as training ships, thus saving that cost per year.

And I believe that is a situation at the Massachusetts Maritime Academy where a training ship is now being utilized.

What are your views on this suggestion?

Mr. GAUGHAN. I will give you my own and then, since we do act as the Navy's agent in the outporting question, I will let the Admiral talk about the rationale of outporting. I certainly have had at least preliminary discussions about the use of RRF status vessels or RRF as a training platform for the cadets, shoreside. And I would not have a problem with that, Senator.

Senator INOUYE. Would the Navy have problems with that?

Admiral PIOTTI. No, sir. I think we would benefit extremely well by having the academies act as our general agents, in that we get the cadet manpower as a free aside, together with the day to day observation of the physical plant and its maintenance as part of their curriculum.

Senator INOUYE. According to the third panel, 40 percent of its recent graduating class found afloat employment, 10 percent active duty in the Navy, Coast Guard, NOAA, and 20 percent in the shoreside maritime industry. How do those numbers compare with the Merchant Marine Academy?

Mr. GAUGHAN. Senator, I will see if we have the specific breakdown. As an aggregate, 84 to 87 percent—I am not sure the exact percentage—of last year's Merchant Marine Academy class found employment in one of those categories in order to meet the service obligation, the obligation of serving in the maritime industry.

So we placed, I believe the number was, 87 percent of the class.

Senator **INOUYE**. But the larger proportion found employment on shore?

Mr. **GAUGHAN**. The larger proportion is on shore. It was not as high as the seagoing number that you gave me, sir.

I can supply that.

[The following information was subsequently received for the record:]

U.S. MERCHANT MARINE ACADEMY STATE MARINE SCHOOLS

EMPLOYMENT OF 1985 GRADUATES

Individuals graduating in 1985 (Class of 1985) form the Merchant Marine Academy and State marine schools found employment as follows:

[In percent]

	Merchant Marine Academy	State marine schools
Employment afloat	20	37
Maritime related jobs ashore	51	23
U.S. Armed Forces and Coast Guard	14	6
Other	15	34

State marine school data were provided by the individual schools. The futures reflect the data available at the time of graduation.

Merchant Marine Academy data reflects data obtained about three months after graduation.

Senator **INOUYE**. So the State maritime academies have a better record of afloat employment?

Mr. **GAUGHAN**. With that snapshot, that is correct, sir.

Senator **INOUYE**. This matter has been touched upon briefly. The House committee has recommended continued Federal assistance to the State maritime academies at a level of $9 million. That is an increase of $7.9 million over the amount requested by the administration. Yet, the House proposal does not increase the total Maritime Administration budget because it has taken away money from other programs.

Can you detail for us in a memo the specific activities in those programs which would be negatively affected if the House committee recommendation stands?

Mr. **GAUGHAN**. I most certainly can, Senator. I will go on the record right now that the most important one is the dredging and the other support services that we are asking for for the National Defense Reserve Fleet. The dredging, the $3.8 million has disappeared.

[The following information was subsequently received for the record:]

The FY 1987 House Authorization Bill for the Maritime Administration (H.R. 4175) transfers $2,000,000 from Research and development to the Operations and training appropriation and reprograms $5,965,000 within that accoount in order to provide a $9,000,000 State marine school program which is $7,965,000 above the Administration's request as shown in the following table:

[In thousands of dollars]

	President's budget request	House committee mark (H.R. 4175)	Difference
Operating-differential subsidy	$320,000	$320,000	0
Research and development	5,500	3,500	−$2,000
Operations and training	62,693	64,693	2,000
Maritime education and training	22,448	29,413	6,965
Merchant Marine Academy	20,278	19,278	−1,000
State marine schools	1,035	9,000	7,965
Additional training	1,135	1,135	0
National security support capability	13,421	9,566	−3,855
Other operating programs	26,824	25,714	−1,110

Within the Operations and training account funds were reprogrammed from the Merchant Marine Academy, National Security Support Capability (National Defense Reserve Fleet), and other operating programs activities. These reprogrammings will jeopardize an orderly termination of the research and development program, result in a detriment to the academic program and gradual deterioration of facilities at the Merchant Marine Academy, prevent meeting national security requirements in the National Defense Reserve Fleet program, and probably result in a reduction-in-force of up to 25 persons.

Reprogramming of $7,965,000 to the State marine school program cannot be supported in the context of the necessity to reduce the Federal deficit and at the expense of other programs that are required to meet long term requirements. The Administration has proposed discontinuance of direct financial support to the State marine schools because of the continued and projected oversupply of merchant marine officers and the diminished value of this program to the Federal Government. While there have been allegations of potential shortages of personnel to man merchant ships during emergencies these shortages consist primarily of unlicensed engine personnel and the State school program plays no role in meeting these requirements. At the present time, the current output of all sources of new merchant marine officers is more than double current and long-range requirements. As a result, the enrollment of the Federal academy has been reduced by about 25% even though all of these graduates incur a Federal service obligation.

The State marine schools, on the other hand, are free to graduate as many new merchant marine officers as they choose even though there are limited job opportunities. However, only those graduates who have received student incentive payments incur a Federal service obligation. Graduates of State schools who do not accept student incentive payments do not incur any Federal service obligation. Upon graduation, if they do not find immediate employment in the maritime industry and find employment elsewhere, these graduates would be less likely to give up their jobs to go to sea in an emergency. The number of graduates from State marine schools having received student incentive payments has decreased from 549 in 1981 to 169 in 1986 which is a very small payback to the Federal government for the ongoing costs of this program. The largest single cost of this program (about 71%) is maintenance of the five training ships which are used in the training of all students at state marine schools both those who have a Federal service obligation and those who have none.

In order to continue the State marine school program, $2,000,000 was reprogrammed from Research and Development. This account was already reduced by $4,000,000 in the President's budget reflecting the final year planned for research and development funding. A further reduction of $2,000 would seriously affect the ability to complete a range of research and development projects presently in progress in order to continue the State marine program with its limited payback to the Government and which is excess to national needs.

$5,965,000 was reprogrammed within Operations and training in order to continue the State school program of which $1,000,000 was taken from the Merchant Marine

Academy, $3,855,000 from National Security Support Capability (National Defense Reserve Fleet), and $1,110,000 from other operating programs.

Most of the Merchant Marine Academy's budget is committed to relatively fixed expenses such as the cost of the faculty, utilities, food service, midshipmen uniforms and textbooks (midshipmen at the Merchant Marine Academy do not receive a Federal salary or stipend). This leaves little flexibility for a $1,000,000 reduction without detriment to the academic program and gradual deterioration of facilities.

This included two maintenance dredging projects, additional mooring facilities and electrical service at the Beaumont site, and replacement of the existing three crane barges. Navy would cost share this program as these improvements would benefit both the Navy funded Ready Reserve Force (RRF) program and the Maritime Administration's reserve fleet program. These projects are required to meet time sensitive contingency activation requirements as well as to permit efficient and safe operations. The President's budget request initiates a multi-year program for dredging of the James River, Virginia shore site access channel and turning basin and the entrance channel at the Beaumont Reserve Fleet to permit their use at all times and at all water levels. The program would also provide for additional mooring and electrical service facilities at the Beumont, Texas site to support additional ships and provide safe moorings during periods of high winds and hurricanes. It would also provide for the replacement of the WWII vintage crane-barge at each fleet site each of which has reached the end of its useful life and have begun to show signs of metal fatigue.

"Other operating programs" were reduced by 37 positions and $1,740,000 in the President's budget. A large portion of the costs budgeted in "Other operating programs" are fixed such as costs of space, utilities, and other centralized services, as well as internal costs of centralized services such as accounting budgeting, procurement, personnel, information resources management, legal services, and program management. An additional reduction of $1,110,000 would result in a total reduction of $2,850,000. While the President's proposed reductions could be effected by attrition, it is expected that a reduction-in-force of up to 25 persons would be required to meet that additional reduction of $1,110,000.

Senator INOUYE. This question has also been touched upon, but I would like it to be a bit more specific. On November 6, 1985, Vice Adm. T.J. Hughes, Deputy Chief of Naval Operations, Logistics, reportedly said, and I quote:

> Our ability to meet military sealift requirements by 1990 will be limited, not by the availability of ships, but rather by the availability of a trained manpower base. Unless current manpower trends in the U.S. merchant marine are reversed, we will have to seek military alternatives. The net result is not just a ship problem, but also a serious manpower problem.

And I presume this is inconsistent with your views, sir?

Mr. GAUGHAN. Senator, that is one of the purpose of the study that Admiral Piotti made mention of, to verify and quantify what is the universe of licensed and unlicensed officers out there, to meet all of these different requirements in a national emergency.

Senator INOUYE. So we have a problem here. The Admiral advises us that it will be at least by the end of June before the report is submitted. We would like to act upon this measure as soon as we can and, as the chairman indicated, in about 2 weeks.

If Admiral Hughes' observation is correct, then I think it is ample justification for continued substantial support of State maritime academies. We would have to know.

Mr. GAUGHAN. Senator, if we can stay on this subject for a moment, one of the things that brought me to the decision on the State academies was when I looked at the amount of money that was going into the five State school ships in terms of maintenance and repair and the number of students that were graduating from the State academies, that were incurring any kind of Federal obligation.

You incur a Federal obligation if you participate throughout the 4 years in what they call the Student Incentive Payment Program. Last year, only 28 percent of the class of 1986 who were originally awarded SIP's remained with the program.

When you look at that number of students versus the high cost of maintaining five State school ships, it did not show to me an adequate return on the dollar, and particularly in light of the oversupply of officers—and I am talking now about licensed officers—that were going into the work force.

Our estimate was that you needed roughly 500 new officers a year in order to meet the mobilization requirements, and we are putting about 1,200 a year into it. So it was a question, Senator, of paying for five school ships, which the Navy has not looked to as assets other than the Massachusetts vessel, and it just was not justifiable to me.

Senator INOUYE. Speaking from the student standpoint, at the State maritime academies the tuition is much greater than the SIP, is it not?

Mr. GAUGHAN. I am sure it is, yes, sir.

Senator INOUYE. Those in the SIP Program are obligated to serve 8 years in the Naval reserve.

Mr. GAUGHAN. That's correct.

Senator INOUYE. At Kings Point students pay nothing.

Mr. GAUGHAN. That is correct.

Senator INOUYE. What is their reserve requirement?

Mr. GAUGHAN. I believe it is a 6-year requirement—or, I honestly do not know, Senator. It may be the same. I do not know.

[The following information was subsequently received for the record:]

The Federal obligated service requirement for graduates of the Merchant Marine Academy and those individuals at State marine schools receiving student incentive payments (SIPs) is set forth in Title XIII, Merchant Marine Act, 1936, as amended (46 U.S.C. 1295).

All graduates of the Merchant Marine Academy are required to serve the foreign and domestic commerce and the national defense of the United States for at least 5 years following graduation as a merchant marine officer serving on vessels documented under the laws of the United States or as an employee in a United States maritime-related industry, profession, or marine science, or as a commissioned officer on active duty in an armed force of the United States or in the National Oceanic and Atmospheric Administration.

Only those State academy graduates who fulfilled all requirements for, and received student incentive payments as cadets through their senior year incur a service obligation and they are required to serve only 3 years in the same categories as those cited above for the Merchant Marine Academy.

In addition, an 8 year obligation in the Naval Reserve (or the reserve component of another Armed Service) applies to all Merchant Marine Academy graduates and to those State academy graduates who accept appointment as a commissioned officer in the reserves.

If a reserve commissioned officer fails to meet the maritime service requirement the individual may be ordered to active duty.

Graduates of State marine schools who do not accept student incentive payments do not incur any Federal service obligation. Upon graduation, if they do not find immediate employment in the maritime industry and find employment elsewhere, these graduates would be less likely to give up their jobs to go to sea in an emergency. The number of individuals accepting student incentive payments has declined significantly from the early 1980s thereby reducing the number of individuals under the control of the government. The number of State marine school graduates having received student incentive payments has decreased from 549 in 1981 to 169 in 1986.

Senator INOUYE. And while at the Academy they get paid, also.

Mr. GAUGHAN. Yes, there is a stipend.

Senator INOUYE. So in many ways we are asking for much more of the cadets at the State maritime academies than we are asking for from cadets at the Kings Point.

Mr. GAUGHAN. Senator, any cadet at Kings Point incurs a Federal obligation.

Senator INOUYE. Well, he gets full pay, plus full tuition, the lot.

Mr. GAUGHAN. I am not sure what full pay means. There is no doubt——

Senator INOUYE. At the State maritime academies cadets do not get paid by the Federal Government. Their tuitions are not paid for by the Federal Government, just the SIP. Furthermore, if there is an emergency it makes no difference whether you are Kings Point or Massachusetts Maritime Academy; you are going to get in. That is the way it was in World War II.

MarAd's budget proposes to eliminate funding for R&D after fiscal year 1987. Before that budgetary decision was made, you requested a report from the National Research Council on the likelihood of the private sector of the maritime industry doing the necessary industrywide maritime research and development.

After your decision was made, the issue of the Journal of Commerce, the May 14 issue, reports that the National Research Council issued an interim report which concludes that: "Industrywide maritime R&D in the United States is likely to collapse without Government support."

Assuming that this Journal of Commerce report is correct, why would you request a study, then take action without waiting for the results of that study? And what are your views on this conclusion that maritime R&D would likely collapse without Government support?

Mr. GAUGHAN. Senator, first of all, I fortunately was not the one that ordered the study and then made the decision to cut it, which would be an apparent contradiction. I am aware of the interim report. I have met with Dr. Mecklin on it.

Our discussions continue about whether or not there are—there is the capability within the industry to carry on R&D efforts. I have made it clear to my own staff that if we identify areas that are clearly in the national need and in support of the roles of the Maritime Administration, that we should be prepared to make that case within the executive in the context of the fiscal year 1988 budget.

I do not at this point—that process is just beginning, and I do not know if, one, my staff will come forward with those types of programs, which I feel are defensible and can enter into the debate. And even if I had it, I do not know if I would be successful.

But we are cognizant of that report. We have met and are talking on it, sir.

Senator INOUYE. I am certain you have seen the May 7 article in the Journal of Commerce, where once again the Navy and MarAd do not see quite eye to eye. This is on the availability of merchant vessels for future defense emergencies.

Your recently released study, "Economic Support Shipping," concludes that shipping capacity is likely to be adequate. A more current estimate by the Deputy Chief of Naval Operations appears to be at variance with that assessment.

Do you people get together in making an assessment of this sort?

Mr. GAUGHAN. Senator, despite the colloquies that we have had earlier in this hearing and the articles you referred to, the Maritime Administration and the Navy are in constant contact.

The impression I have from that May 7 article was that it was not understood by the staff of that newspaper that MarAd had been tasked as part of an ongoing set of studies and reviews at looking at the availability for sustaining the commercial economy. That is what we did, and it was in conjunction and in coordination with other efforts that the Department of the Navy had on sealift and others.

And I am not sure that there is a disagreement. I may be wrong. I have been certainly wrong before. But Admiral Piotti may have some views in that regard also.

Senator INOUYE. Admiral, if we were involved in a so-called conventional war in Europe, do we have enough ships to sustain our troops there logistically for 60 days?

Admiral PIOTTI. We are marginally there. What that means in plain language is we have about a 100,000 to about 500,000 deadweight-tons shortfall. That shortfall would exist all the way through the surge period and then would dissipate. But it is that rapid deployment in support of the troops that would be required.

Now you have to translate that across a global conflict, because that is what we prepare for. The requirements for sealift are determined by the CINC's war fighting-plans, and when you aggregate them every year depending on what is required of the military you come up with a bottomline number of deadweight tonnage based on the equipment we would use. That is where that shortfall comes from.

MarAd had done a study a year earlier. The results weren't published. The results of the study you are reading from, and Admiral Hughes quoted from, was the DOD sealift study that was completed last year.

Senator INOUYE. Why have you not released that study?

Admiral PIOTTI. The study in and of itself is classifed. It could be released to anybody who asks for it.

Senator INOUYE. I think it is very important for this subcommittee to take a look at it. We have provisions whereby classified material can be shared with us.

Admiral PIOTTI. Yes, sir; and we would be glad to provide it. There is also a DOD tanker study.

Senator INOUYE. I think that would be very important instead of getting little bits here and there from the Journal of Commerce.

Admiral PIOTTI. I would be glad to provide it, Senator.

Senator INOUYE. My final question, Mr. Chairman, is a rather complicated one, so I am going to read this.

The Maritime Administration issued Notices of Proposed Rulemaking, dockets R-104 and R-105, which would establish guideline rates for liner parcels of bulk preference cargoes, and require agencies to consider the ODS received by subsidized operators in evaluating bids. These guideline rates would, among other things, provide for the use of averages in determining operating costs.

Is MarAd's proposal designed to allow recovery by all U.S.-flag-line operators of their individual costs plus a reasonable profit?

Mr. GAUGHAN. Senator, that rulemaking, since it is geared toward treatment of ODS carriers, is probably focused on the ODS carriers.

Senator INOUYE. Do you think they can make a reasonable profit under your rules?

Mr. GAUGHAN. That is one of the premises of the rule, yes, sir.

Senator INOUYE. If on a voyage or during a certain time period, a U.S.-flag liner operator's carriage of nonpreference cargo and preference cargo not subject to subsidy abatement and does not afford the operator a reasonable profit, what basis is there for subsidy abatement, which obviously in these circumstances will preclude a reasonable profit overall?

Mr. GAUGHAN. Senator, with all due respect I would like to provide that for the record.

[The following information was subsequently received for the record:]

Neither R-104 nor R-105 abates subsidy. R-105 requires the shipper agencies to consider ODS as a cost to the Government in evaluating bids by liner operators for the transportation of dry bulk preference cargoes. Should a subsidized operator's bid plus ODS be lower than the bid of a competing unsubsidized operator, the subsidized operator would receive the appropriate fair and reasonable rate for the cargo from the shipper agency and ODS from the Maritime Administration. Existing regulations in force, 46 CFR 280, require percentage reductions in ODS when subsidized liner operator's annual revenues for the carriage of noncompetitive preference cargoes exceed certain parameters.

The Administration has proposed legislation that in effect would eliminate the payment of ODS for the carriage of military and "premium-rated" civilian preference cargoes. In this regard, the purpose of operating-differential subsidy is to reduce the cost disparity that U.S.-flag operators suffer in comparison with their foreign competitors. Although it is an extremely important issue in terms of a company's viability, profitability is not considered in the context of determining ODS amounts. Presumably, when world market conditions are favorable, U.S. and foreign operators alike are generally profitable. Conversely, everyone shares in the financial uncertainty brought on by major slumps in the markets such as have been experienced worldwide in recent years. The proportional repayment of ODS for the carriage of military and "premium-rated" civilian preference cargoes, as provided in the Administration's legislative proposal, is intended to focus the payment of subsidy to service which has direct foreign competition for these cargoes. In the case of civilian preference cargoes, fifty percent is generally transported on foreign-flag vessels at world freight rates, and the remaining fifty percent is generally carried on U.S.-flag vessels at somewhat higher rates. (U.S.-flag vessels carry sixty to seventy-five percent of agricultural cargoes covered by the Food Security Act of 1985.) To the extent that U.S-flag vessels are available at fair and reasonable rates, there is no foreign competition for the government share of these cargoes. Thus, U.S.-flag operators essentially compete against each other at similar cost levels for the military and civilian preference cargoes that are reserved for U.S. flag and there is no need for ODS. Furthermore, subsidized U.S.-flag operators would attempt to carry more commercial cargoes to compensate for any loss of preference cargo subsidy.

Senator INOUYE. It has been said that it is the intention of R-104 and R-105 together to secure low rates for the Government at direct expense of reasonable profits by certain operators who for some reason have a higher operating cost per voyage than others.

Would you care to comment on that?

Mr. GAUGHAN. Again, Senator, as a rulemaking that is in the process, I would like to request that I defer commment on that point.

Senator INOUYE. Mr. Chairman, I have a couple more questions I would like to ask the Admiral.

I believe the DOD Cargo preference shipments constitute the major outbound cargo for the United States. This cargo is, I am told, essential for positioning U.S. carriers to compete profitably for our inbound trade.

There have been reports that because of MSC's procurement practices, recent bids have been so low that when oil prices fell precipitously during the first 3 months of this year, the application of a bunker adjustments factor in MSC's contracts resulted in some negative rates. Specifically, as reported in the Journal of Commerce, one of our carriers had to pay MSC $1.97 in cash for every ton of cargo it transported for MSC across the Pacific Ocean.

Officers of DOD have made numerous statements regarding our absolute dependence on the privately owned merchant marine to support many planned contingency operations and as you have indicated one, of your studies has indicated that our liner fleet is presently marginally inadequate.

Do you not believe, Admiral, that the effect of the MSC procurment practices, I have just described, are destructive of our liner industry?

Admiral PIOTTI. If I might, Senator, I would like to explain how that came about.

In 1971, as the cost of fuel was skyrocketing, the carriers came to the Government's agent, MSC, and asked for relief. At that time we enacted a policy wherein we would compensate the carrier for 79 percent of any increase above a base rate that was to pertain to a 6-month cycle. The base rate is based on the Platt Oilgram.

The conditions of which you speak occurred in the current cycle. We have since provided relief to those carriers, so nobody is carrying DOD cargo at a negative rate, but we cannot trash a policy that has benefitted the carriers for 15 years without Government compensation and without approaching it in a balanced way, which we have done.

In the present 6-month cycle the base rate was $21.51. The fuel price went down to below that figure. Therefore, a credit was due the Government of $8.52 against one of the liners filing a rate of $6.73. That situation returned a profit to MSC for carrying DOD cargo. That negative rate was not right. Everybody is entitled to a positive rate.

So in this case we froze the base rate at the January 28 fuel price of $16.02 per barrel. This limited credit to the Government to $4.34 for the cycle; therefore, all the carriers on route 1, which is the west coast to Japan route, are now carrying at a positive rate.

Senator INOUYE. Is it true that you advanced the data on which you pegged fuel prices for bunker adjustment factor purposes in the Pacific trades so as to eliminate the negative rate?

Admiral PIOTTI. The bunker fuel adjustment factors are normally based on the Platt Oilgram of December for the current 6-month period. What we did, because of the hurt that this subsequently caused in the trade, was to say, all right, if you were not aware of the rapid decline in prices, we will take the fuel rate as of January 28, a date subsequent to the December-based Platt Oilgram, and freeze it at that point. In consideration for this relief, the Government will receive increased reservations for space on your ships, increases in the amount of refrigerated space, and increases in inbound cargo space.

Senator INOUYE. We have another command which procures airlift, the Military Airlift Command, and they do it for the DOD very much in the same way that you procure commercial sealift. In order to help assure a healthy airline industry, the Military Airlift Command, with the approval of DOD, procures commercial airlift through its civil reserve air fleet which fixes rates based on composite actual cost, plus a profit.

Given the perilous condition of the U.S.-flag liner fleet, why is it not proper and logical for the MSC to adopt a procurement program similar to the CARAF?

Admiral PIOTTI. The way that we operate is that the liners themselves put in bids for our shipping agreements. They determine what those bids are. One carrier is liable to come in at $7 per measurement ton one month and $14 the next, or vice versa as in the case of the last session.

They determine what their bids are in a free and open competitive system, and then we take the lowest two carriers and include them in our shipping agreements by providing a reservation for Government cargo.

Senator INOUYE. How do they do it in the airlift; by bid also?

Admiral PIOTTI. I am not sure, Senator.

Senator INOUYE. I gather that all the commercial airlines involved in the program are assured a profit. It may not be huge, but they do not lose anything.

Admiral PIOTTI. That would have to be a cost-plus basis, vis-a-vis the competitive basis which we use.

Senator INOUYE. You do not believe in that?

Admiral PIOTTI. I would have to compare the performance of both those systems, but this way we let the industry set its own rates and come in to us under bid.

Senator INOUYE. With overcapacity, I suppose some of the industry people would bid to the verge of bankruptcy. Sitting here on this committee, I do not think that is a healthy situation. I would hope that you would look into this Military Airlift Command's policy and see if something like that cannot be applied to your operation.

Admiral PIOTTI. I would be glad to look at it.

Senator INOUYE. Mr. Chairman, I apologize for this lengthy questioning, but I thank you very much.

Senator STEVENS. Thank you very much. I appreciate your courtesy, and we will follow up this hearing. We intend, as I indicated, to have this bill before the full committee on the 3rd.

[The following information was subsequently received for the record:]

[MEMORANDUM]

U.S. DEPARTMENT OF TRANSPORTATION,
MARITIME ADMINISTRATION,
July 18, 1986.

To: Senator Ted Stevens, Chairman, Subcommittee on Merchant Marine.

While discussions between MarAd and the Navy continue in an attempt to resolve issues concerning the RRF, the process is not complete. There still exist several areas of disagreement. It is the intention of the Secretary of Transportation to pursue discussions with the Secretary of Defense in an effort to come to mutual agreement. However, in order to be responsive to the Committee request, we are providing for the Committee's use of the memorandum we have previously provided to OMB and the Navy.

EXECUTIVE SUMMARY: RESPONSE TO SENATORS STEVENS AND INOUYE

At the May 16, 1986, hearing before the Senate Committee on Commerce, Science and Transportation on the Maritime Administration FY 1987 Authorization, Senators Stevens and Inouye requested comment from the Maritime Administration (MarAd) and the Military Sealift Command (MSC) on an amendment to the Ship Sales Act of 1946 that would specifically state that the Ready Reserve Force (RRF) is a component of the National Defense Reserve Fleet (NDRF). MarAd concludes that the amendment is not necessary as a matter of law because it merely restates current law. MarAd has always maintained that the RAF is a component of the NDRF for the following reasons:

(1) It is consistent with longstanding Administration policy.

Sealift capability held in reserve for civil and military emergency situations has been held in reserve by civilian agencies (MarAd and its predecessor agencies) since WWI.

The National Defense Reserve Fleet was created by the Ship Sales Act of 1946 and specifically assigned to a civilian agency.

The RRF was created November 2, 1976, by a Memorandum of Agreement between Navy and MarAd as a component of the NDRF.

Funding under the Navy budget for the upgrading and acquisition of ships for the RRF (and before it was established, the NDRF) to enhance sealift capabilities, has been a mutually accepted practice since it was proposed in June 1972 by the then Acting Director of the Office of Management and Budget, Caspar Weinberger.

Since the establishment of the RRF in 1976, and the revision of the Navy/MarAd agreement in 1982, the fact that the RRF is a component of the NDRF has never been discussed or even questioned.

(2) It is consistent with legislative enactment over the course of four decades.

There is by law but one reserve for government-owned merchant vessels, the NDRF esablished by Section 11 of the Ship Sales Act of 1946.

The RRF is only a component of the NDRF, a fact heretofore recognized by the Congress, the Department of Defense, and the General Accounting Office.

The Civilian Secretary of Transportation is solely responsible for the entire NDRF in order to implement all of the purposes of Section 11 of the Ship Sales Act of 1946 and numerous related statutes.

No sound reason has been advanced that would warrant reconsideration of or change to the legal status of the NDRF.

(3) It is the most cost effective way to maintain the RRF.

MarAd has an established capability and a long record of expertise in maintaining laid-up ships in cold iron status—MarAd's experience represents 50,000 ship years of maintenance of laid-up ships in varying levels of readiness since WWII.

MarAd has developed the procedures and poineered the technology necessary to maintain ships in periods of indefinite lay up.

MSC has never maintained ships in long-term lay up.

MSC has only maintained laid-up ships in reduced operating status (ROS), with partial crews. This practice has been determined by GAO to be a far more expensive form of lay up: RRF maintenance at $75 per day whereas ROS maintenance ranged from $2,870–$5,228 per day (B–181714, February 4, 1979).

To suggest that MSC has, or could acquire, a capability comparable to that of MarAd without substantial start-up costs appears to be implausible.

The MSC perception of unnecessary costs for lay-up is largely due to the fact that the Navy/MarAd agreement requires that the ships be maintained in accordance with U.S. Coast Guard and American Bureau of Shipping Standards, a practice that is not required of MSC for its own ships.

(4) It will assure the additional merchant shipping surge required by current defense planning sealift doctrine without causing disadvantage to the existing privately-owned merchant fleet.

The RRF is only one part of the mobilization shipping capacity. The other parts include the balance of the NDRF, the U.S.-flag merchant fleet, the committed NATO pool and the militarily useful component of the so-called "Effective U.S. Controlled" fleet. As such, the RRF is projected to represent in 1991 only 116 of a total pool of 962 ships.

When activated, the ships from the RRF will be indistinguishable from the ships from the active U.S. merchant fleet: they will be operated by civilian companies operating under general agency agreements (GAA) and manned by merchant mariners.

(5) MarAd has managed the RRF program very successfully. Therefore, no reason exists to radically alter the system in place.

MarAd has managed the placement of 46 Federally-owned ships into the RRF.

MarAd has, as of May 23, 1986, managed the procurement of 43 additional ships for the RRF.

Since 1977 MarAd has successfully managed the test activation of some 30 ships.

In the three most recent no-notice activations of RRF ships, all this year, all ships were placed on berth to receive cargo on schedule and at a very low cost.

(6) It will continue control of merchant shipping required to satisfy the priorities involving military operations and general economic support of the private sector under both normal and contingency situations.

The private maritime industry has long perceived laid-up government-owned merchant shipping capacity as a major potential threat to commercial operations. MarAd has a long history of managing government-owned ships with the least possible disadvantage to the private sector.

The concept of developing sealift capability from an ever-growing government-owned merchant fleet as a replacement for an active, privately-owned commercial merchant marine is contrary to longstanding federal policy and the policy of this administration which requires maximum dependence on the private sector.

U.S. Government policy has always recognized that there is a fundamental difference between the civilian and military roles in wartime but that there are also inherent linkages between the two sectors.

Any fundamental change in the basic concept would require a fundamental re-examination of the basic policies of merchant shipping and defense sealift at a level far higher than MarAd and MSC.

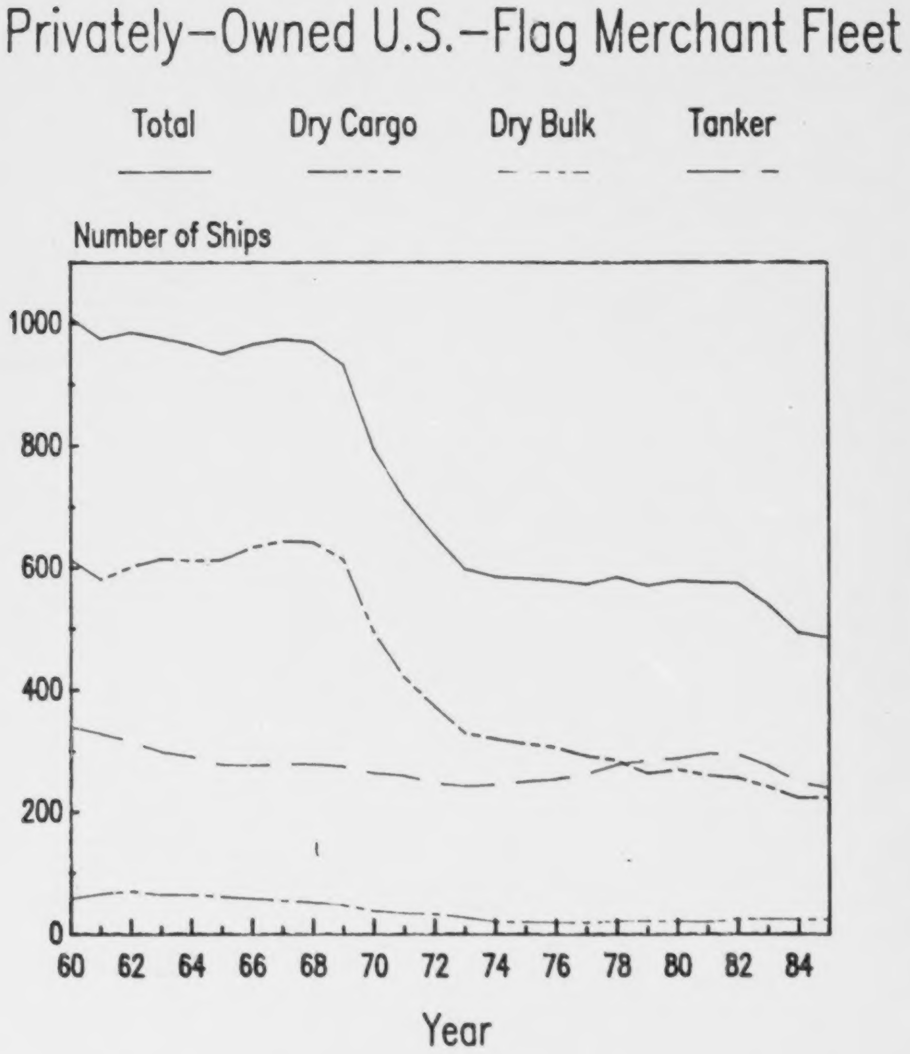
It was initially calculated that 10 national ships on berth within 10 days would be adequate to satisfy DOD needs until the SRP could be activated to deliver ships from the commercially operating U.S.-flag merchant fleet or requisitioning was accomplished. It was specifically decided that rather than add excess capacity to the "MSC nucleus fleet" in a more costly reduced operating status (ROS), certain ships in MarAd custody would be upgraded. As a consequence, the RRF was created by an Memorandum of Agreement (MOA) between the Assistant Secretary of Navy (Installations and Logistics) (John Bennett) and the Assistant Secretary of Commerce for Maritime Affairs (Robert J. Blackwell) dated November 2, 1976, in recognition of a ". . . mutual interest and responsibility in the joint establishment, maintenance and control of a Ready Reserve Force (RRF), which shall be an element of the National Defense Reserve Fleet (NDRF) that is maintained by the Maritime Administration." The upgrading work was subsequently accomplished utilizing Navy funds, first from the MSC Industrial Fund and later from Navy Operations and Maintenance appropriations. The maintenance of the RRF was funded from the MarAd Operations and Training Budget until FY 1982 when the funding was transferred to the Navy budget.

The basis for funding the RRF program under the Navy budget had its genesis in a memorandum dated June 12, 1972, from then Acting Director of the Office of Management and Budget, Caspar Weinberger, to James T. Lynn, Under Secretary of Commerce, which stated in part" . . . we believe that the role of the NDRF is military in nature and that determinations regarding the need for improving the capability of the fleet are a military responsibility. Therefore, funds for this purpose should compete with funding for other military requirements, and in this way insure that the request is of sufficient priority."

At no point before or after the establishment of the RRF in 1976, or the revision of the MOA in 1982, was the fact that the RRF was in integral part of the NDRF discussed, much less challenged.

Since the RRF was created in 1976, the sealift conditions of the United States have continued to evolve both in terms of ship availability and deployment requirements. Two specific changes have occurred in the available sealift resources: the U.S.-flag merchant marine (Figure 1) and the so-called Effective U.S. Control (EUSC) fleet have continued to decline and the World War II-built ships that constituted the core of the NDRF continued to age. During this period, the requirement for sealift also evolved, emphasizing the early deployment of U.S. forces. This evolution culminated in the 1982 approval by the NATO defense ministers of the Rapid Reinforcement Plan (RRP) which requires that U.S. forces be deployed to Europe within a period of 30 days.

FIGURE 1



This evolution in requirements and capability, in turn, has led to two developments in the way sealift is provided: first, a growing NATO involvement through an increase in the number of NATO ships committed to rapid deployment to a total of 400 ships in 1977 and, second, a continuing increase in the number of ships in the RRF.

In this role, the RRF component of the NDRF constitutes one of five sources of "surge" sealift in a conflict involving the NATO alliance: the MSC fleets (nucleus ad controlled), the active U.S. fleet, the NDRF of which the RRF is a component, the NATO commitment and the EUSC fleet. In a NATO conflict, the NATO commitment will be delivered from the commercial merchant fleets of the various nations and delivered via the National Shipping Authorities (NSA's) which are the civil counterparts of MarAd. The RRF, activated under these conditions, would be manned by merchant mariners and operated by private shipping companies under general agency agreements and would otherwise be indistinguishable from the ships from the U.S.-flag merchant marine but for the color of the hull. In a NATO conflict, the RRF would represent only 116 ships of the available total of 962. In a non-NATO conflict the United States cannot rely with certainty on the NATO commitment, and as a consequence would have fewer sealift resources available.

The "surge" sealift resources expected to be available in 1991, when the RRF reaches its projected size, are detailed in Table 2.

TABLE 2.—SOURCES OF SURGE SEALIFT—1991

[Number os ships]

	General cargo	Tankers	Passenger/troopships	Total
Privately owned U.S. fleet	150	107	2	259
NATO commitment	400	40	15	455
EUSC (military useful)	16	42		58
NDRF	62		12	74
RRF	100	16		116
Total	728	205	29	962

EFFICIENCY/ECONOMY

MarAd provides the most effective means for maintaining the RRF. It is implausible that MSC could manage the RRF program in a manner that would equal or achieve significant savings over current MarAd efforts. This is true for several reasons. First and foremost, MarAd has an established capability and a long record of expertise in this area of merchant ship lay-up, preservation, and maintenance. MarAd has maintained a substantial reserve fleet for 50 consecutive years since its initiation in 1936 (Table 3 details the number of ships in the NDRF 1945 to present). At present MarAd maintains 299 ships in the NDRF. The collective MarAd experience in maintaining laid-up ships represents 50,000 ships years of maintenance at various levels of readiness since World War II. The procedures used for long term lay-up necessarily involve installation and periodic maintenance of dehumidification systems, cathodic protection and external coatings. These systems were developed by MarAd and have been perfected over the years. The high quality of MarAd's performance is apparent from the fact that World War II built ships can still be quickly and successfully activated.

TABLE 3.—Exhibit 1-1: National Defense Reserve Fleet, 1945-86

[Number of ships]

Years:	
1945	5
1946	1,421
1947	1,204
1948	1,675
1949	1,934
1950	2,277
1951	1,767
1952	1,853
1953	1,932
1954	2,067

1955	2,068
1956	2,061
1957	1,889
1958	2,074
1959	2,060
1960	2,000
1961	1,923
1962	1,862
1963	1,819
1964	1,739
1965	1,594
1966	1,327
1967	1,152
1968	1,062
1969	1,017
1970	1,027
1971	860
1972	673
1973	541
1974	531
1975	391
1976	373
1977	342
1978	320
1979	315
1980	320
1981	322
1982	321
1983	307
1984	278
1985	388
1986	299

By contrast, MSC has never maintained ships on long indeterminate periods of lay-up in cold iron status. Although MSC has placed ships out of actual operation for brief periods of time, they have been partially crewed and held in reduced operating status (ROS). This short-term lay-up presents substantially different and less demanding requirements than long term lay-up and is vastly more expensive. (At one point, the Comptroller General found that the RRF maintenance was $75 per day while the ROS maintenance was $2,870-$5,288 per day. B-181714, February 4, 1979.) To suggest that MSC has, or could immediately establish or acquire, a capability comparable to that of MarAD without substantial start-up costs is difficult to believe.

Further, MSC has different standards for maintenance of its ships. It is not required to maintain its ships "in class" with Coast Guard and American Bureau of Shipping (ABS) standards; for MSC these commercially mandatory standards constitute only a target level of maintenance. Under the terms of the RRF Memorandum of Agreement, full compliance with Coast Guard and ABS standards are absolute requirements for initial entry of a ship into the RRF and the ship must continue to meet those standards to remain qualified for the RRF. (Interestingly, it was MarAd that convinced MSC of the level of upgrading and maintenance necessary to assure the readiness of the RRF to meet the 5 and 10 day defense requirements.) This difference in what is required for MSC ships and for RRF ships is the basis for what MSC perceives to be unnecessary costs incurred by MarAd in placing ships into RRF lay-up. As an example, MSC ships, when delivered to MarAd, were so substantially below "class" that considerable additional expenditures were required to bring the ships up to the standards required for entry into the RRF.

It also should be noted that a GAO report (B-168700) dated November 18, 1971, recognizing that both MarAd and Navy (*not* MSC) maintained reserve fleets, recommended that the Navy ships be transferred to MarAd for reasons of economy and efficiency. Among other reasons it stated, MarAd" . . . uses experienced civilian personnel, whereas Navy uses relatively inexperienced military employees."

At present, MarAd has a well established and highly experienced staff of 386 marine engineers, ship surveyors, ship preservation specialists, marine electricians, steam and diesel mechanics, and other commercial marine technical personnel dedicated to the NDRF/RRF program. While most of these personnel are wage grade employees engaged in the day-to-day maintenance and upkeep of the NDRF/RRF ships, approximately one-fourth of these personnel are professionally skilled individuals involved in the planning, management, supervision, and management of the program. These 386 personnel are evenly distributed at East Coast, Gulf Coast, and West Coast locations and MarAd's Washington headquarters.

MarAd has successfully conducted the RRF program from its inception to the present. It has managed the induction of 46 Federally-owned ships into the RRF. In addition, as of May 23, 1986, MarAd has procured 43 additional ships for the RRF, of which 13 are currently in the process of being received and placed in the RRF. Starting in 1977, MarAd has successfully managed the test activation of some 30 RRF ships. No-notice activations of three RRF ships in five day readiness were conducted in late January and early February of this year. All three were received and placed on berth to receive cargo on schedule and at a very low cost.

COMMERCIAL IMPACT

The final concern is the interaction of the reserve merchant shipping capacity with the operating U.S.-flag merchant marine. There are two aspects to this issue: first, the threat, real or perceived, to commercial operations posed by a large government-owned fleet and, second, the basic concept of developing a large government-owned merchant fleet rather than supporting an ongoing commercial operation.

The private maritime industry has long perceived a laid-up government-owned merchant shipping capacity as a major potential threat to commercial operations. Thus, the disposition of war-built tonnage after WWI and WWII was affected with the utmost consideration of the commercial market to ensure that overtonnaging did not occur. In a similar manner, the industry has always been concerned of the possible use of MSC controlled tonnage to carry military cargoes in direct competition with the ships owned by the private, sector.

A second concern is the prospect of an entirely MSC controlled and managed RRF replacing the commercial U.S. merchant marine. This issue is fostered by frequent signs of diminishing military reliance on and support for the U.S-flag commercial merchant fleet. For example, the size the role of the RRF has been drastically increased without any strong support for or consideration of a greater commercial fleet as a better alternative. Given the decline of the U.S.-flag commercial fleet, the growth of the RRF and MSC's present effort to take over the RRF, the logical consequence is the abandonment of all direct and indirect support of U.S.-flag commercial shipping in favor of a DOD owned and operated merchant marine.

On the other hand, it is recognized and appreciated that some senior Navy officials unequivocally voice support for the preservation and strengthening of a viable, operational commercial U.S.-flag merchant fleet. Thus, in the most recent Navy testimony on the subject, June 1, 1986, before the Subcommittee on the Merchant Marine of the House Merchant Marine and Fisheries Committee, a senior Navy official stated, "If there were no U.S.-flag merchant marine, it would have to be replaced by a government owned and operated sealift fleet—at considerable additional expense to acquire and operate. As an option, such an alternative is neither practical nor cost effective."

The expanding scope of the RRF raises the basic policy issue as to the nature of the relationship between the civilian and military sectors of the government in meeting national objectives. The history of the interaction between the merchant marine and the U.S. military forces is highly instructive in this regard. During World War II, the War Shipping Administrator, who in peacetime had been the Chair of the U.S. Maritime Commission (the predecessor to MarAd), reported directly to the President. The War Shipping Administration (WSA) was responsible for the purchase, construction, and requisition of merchant vessels that were used by the Army, Navy and other government agencies. With all ships subject to WSA requisition, ship operators in the civil sector of the economy became operating agents for the government. As a result the American maritime industry remained intact and operated as a sector of the mobilized wartime economy. The fact that there are both civil and military aspects to the role of merchant shipping in wartime is clearly affirmed in the so-called "Wilson-Weeks agreement," a Memorandum of Agreement between the Department of Defense and the Department of Commerce dealing with the utilization, transfer and allocation of merchant ships, dated July 1, 1954, and signed by Secretary of Defense Charles E. Wilson and Secretary of Commerce Sinclair Weeks. This agreement states that the Departments of Defense and Commerce (now Transportation) ". . . agree that, for the national defense, they have complementary interests in the control and utilization of oceangoing merchant ships." This agreement defines the procedures that would be used to augment the specifically limited MSC (then the Military Sea Transportation Service) nucleus fleet with ships not permanently assigned to MSC.

This dual civil/military responsibility for the merchant marine has continued to be expressed repeatedly and appears again in the Memorandum of Agreement of October 20, 1982, between the Department of the Navy and Marad which states, in part, that the Agencies" . . . have a mutual interest and responsibility in the joint establishment, maintenance and control of a Ready Reserve Force (RRF), which shall be an element of the National Defense Reserve Fleet (NDRF) that is maintained by the Maritime Administration . . ."

The basic premise inherent in these, as well as repeated Administration and Congressional statements on the role of merchant shipping during a period of national emergency, is that there is a fundamental difference between the civilian and military roles, but there are also inherent linkages between the two sectors. It is clear from history and existing legislation that the Secretary of Transportation and MarAd are best situated and best suited within the Federal Government to perform the task of forging a balance between any competing defense and commercial considerations in the maintenance of all of the nation's merchant shipping capability: both the active fleet as well as reserve fleet ships. To argue otherwise would require a fundamental reexamination of the basic policies of merchant shipping and defense sealift at a level far higher than MarAd and MSC.

Appendix

LEGAL ASPECTS

For the reasons discussed below, the proposed amendment to H.R. 4175 confirming the RRF as a subunit of the NDRF is not technically required. However, it is strongly endorsed as useful.

MarAd's legal position on the suggestion by the Military Sealift Command (MSC) that the RRF be transferred to the MSC is as follows: Sec. 11 of the Merchant Ship Sales Act of 1946 (1946 Act) (50 U.S.C. 1744) is the only provision in law authorizing a merchant vessel reserve; the RRF has been and is a component of or subunit within the NDRF; responsibility for the entire NDRF is vested in the Secretary of Transportation; and no change in the existing law is necessary.

Statutory basis

The sole statutory mandate for a government reserve of merchant vessels appears in Sec. 11 of the 1946 Act. As originally enacted, it read as follows:

"Sec. 11. (a) The Commission shall place in a national defense reserve (1) such vessels owned by it as, after consultation with the Secretary of War and the Secretary of the Navy, it deems should be retained for the national defense, and (2) all vessels owned by it on December 31, 1947, for the sale of which a contract has not been made by that time, except those determined by the Commission to be of insufficient value for commercial and national defense purposes to warrant their maintenance and preservation. . . . Unless otherwise provided for by law, all vessels placed in such reserve shall be preserved and maintained by the Commission for the purpose of national defense. A vessel placed in such reserve shall in no case be used for commercial operation, except that any such vessel may be used during any period in which vessels may be requisitioned under Section 902. . . ."

The fundamental objectives of the 1946 Act were:

"(1) The establishment of a firm pricing policy for the sale of war-built merchant vessels, and (2) the establishment of an inactive merchant vessel reserve promptly available for security needs, but frozen so far as commercial use is concerned." Senate Report No. 807 on H.R. 3603, p. 2.

The Senate Committee endorsed the conclusions of a special report entitled "Report on the Use and Desposition of Ships and Shipyards at the End of World War II", by Harvard University on contract to the Navy Department and the U.S. Maritime Commission (June 1945). The key concept, on page 139 of that report, was that ships kept in the reserve fleet should be "sterilized" so as to "prevent them from exerting unfavorable influence on the commercial operation of ships and on the market for ships."

By amendment in 1950, Pub. L. 81-591, the last sentence quoted above was revised to read as follows:

"A vessel placed in such reserve shall in no case be used for any purpose whatsoever except that any such vessel may be used for account of any agency or department of the United States during any period in which vessels may be requisitioned under section 902 . . ., and that any such vessel may be used under a bareboat charter entered into pursuant to authority vested in the Secretary of Commerce on July 1, 1950, or granted to the Secretary of Commerce after such date."

Here, the non-defense role of the NDRF was slightly expanded. However, the accompanying legislative reports reflected continued emphasis against the use of government owned vessels to compete with privately owned vessels serving any given trade. Sen. Rept. No. 1783, pp. 2-3, H. Rept. No. 2353, pp. 3, 5-6.

Subsequently enacted provisions of the Merchant Marine Act, 1936 (1936 Act), also administered by the Secretary of Transportation, indicate clearly the statutory basis for a single merchant reserve fleet. Sec. 510(g) of the 1936 Act (46 App. U.S.C. 1160(g)) provides for operation of NDRF vessels not only when Sec. 902 is operative, but also when otherwise allowed under the 1936 Act. Section 510 (i) and (j) of the 1936 Act (46 App. U.S.C. 1160 (i) and (j) reflects specific authority for the renewal of the NDRF and to operate that fleet in other than defense contexts. Section 715 of the 1936 Act (46 App. U.S.C. 1205) authorizes operation of vessels from the NDRF for experimental and testing purposes. Sec. 209(b) (6) and (9) of the 1936 Act (46 App. U.S.C. 1119) permanently mirrors provisions in MarAd's appropriation and authorization acts relative to reserve fleet activities generally.

Research has revealed no legislation apart from Sec. 11 of the 1946 Act, and those provisions of the 1936 Act complementing and implementing Sec. 11, which authorizes any agency to establish a reserve of government-owned merchant vessels. This is particularly true of the MSC and the Navy, which have clear military roles, but no non-defense roles. The dual purposes for the NDRF have been repeatedly recognized over the years by various authorities in addition to the legislation already noted. The Comptroller General unequivocally recognized that the NDRF is not limited to defense purposes. B-118779, "The National Defense Reserve Fleet—Can It Respond to Future Contingencies?" (October 6, 1976). Further, the establishment of and amendments to the Vessel Operating Revoling Fund reflect special provision for private charters of ships from the NDRF, 46 App. U.S.C. 1241a *et seq.*

The vital balance between commercial and defense considerations is always struck when deciding whether to call out the NDRF and for what purpose. The 1966 hearings, "Vietnam—Shipping Policy Review" are instructive in this regard. The Maritime Administrator explained this decisionmaking (pp. 3, 10-11). Assistant Secretary of Defense Moot, upon close questioning, conceded that national policy on defense and commercial use of the merchant marine was not the Defense Department's responsibility, but that of the Department of Commerce (pp. 49-50), a fact confirmed in subsequent correspondence for the record from the Defense Department (pp. 323-24). Consequently, if the suggestion that one part of the NDRF be transferred to MSC in reserve were adopted, the flexibility intended for the NDRF would be denied. Navy ships simply are not available for the other purpose for which vessels are placed in the NDRF.

It has been implied that the funding for the RRF through Navy appropriations established a second reserve of merchant vessels. Review of the defense funding acts, noted in some detail below, fails to uncover any basis for such an implication; indeed, the legislative histories of those enactments prove just the opposite. Equally unavailing is any reference to the general vessel transfer statute, which would require the agreement of the Secretary of Transportation for any transfer of the RRF to MSC. Given the text and intent of Sec. 11 of the 1946 Act and the several cited sections of the 1936 Act, no consent to relinquishment of statutory responsibilities could be given.[1]

In short, the only statutory authority for the merchant vessel reserve fleet is Sec. 11 of the 1946 Act.

RRF is part of NDRF

The RRF is solely an administrative creature, created by a Memorandum of Agreement between the Navy and MarAd in 1976, which agreement was revised in 1982. Both documents expressly state that the RRF is a component of the NDRF.

Until the present controversy, there was unanimity that the RRF is solely a subunit of the NDRF, not only by MarAd and the Navy in their MOA, but also by a congressional agency, the General Accounting Office, and a senior executive agency, the Office of Management and Budget.

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[1] The vessel transfer statute, codified at 40 U.S.C. 483a, and made permanent by Sec. 8012 of Pub. L. 99-190, had as its special purpose the avoidance of the reimbursement requirement of the general "Economy Act," now found at 31 U.S.C. 1535. This provision of law, requiring consent of the requested official, was never intended, nor was it ever used, to permit transfer of an NDRF vessel for other than active operation for a definite need. On the other hand, it has been used as a vehicle of transfer into reserve status in the NDRF (both normal reserve and upgraded (RRF) reserve). This is consistent with the basic purpose of Sec. 11 of the 1946 Act, and the complementary powers in other statutes assigned to the Secretary of Transportation, including the aforementioned sections of the 1936 Act and others such as 40 U.S.C. 484(i).

Thus, several reports of the Comptroller General show that the RRF is only a part of the NDRF: *e.g.*, B-181714, "Navy Should Reconsider Planned Acquisition of Two Multimission Ships" (June 21, 1976); B-118779, "The National Defense Reserve Fleet—Can It Respond to Future Contingencies?" (October 6, 1976); B-181714, "A Time to Consider Alternative Sources of Quick Response Sealift Capacity" (February 7, 1979).

The budget documents relating to MarAd for the last decade, as approved by OMB, have consistently described the RRF as a "component" or "subset" of the NDRF. The legislative reports have utilized the same terminology; *e.g.*, FY 1982, H. Rept. 97-63, p. 9; FY 1983, H. Rept. 97-539, p. 6.

The budget records for the Department of Defense, also approved by OMB, reiterate the same fact, often using the same words; *e.g.*, FY 1982, "Military Posture," p. 526; FY 1983, testimony of Assistant Secretary of the Navy Sawyer, p. 426; FY 1984, Pub. L. 98-390 specifies procurement of RO/RO's for the NDRF when the record shows that RRF status was intended; FY 1984, H. Rept. 98-107, p. 75, and S. Rept. 98-174, p. 81; FY 1985, S. Rept. 98-500, p. 77, and H. Rept. 98-691, p. 90; FY 1986, Sen. Hearings, pp. 4680 and 4683-84, and H. Hearings, p. 754.

Secretary of Transportation solely responsible for entire NDRF

The unbroken chain of authority establishes that sole responsibility for the entire NDRF, including its RRF component, rests with the Secretary of Transportation (SOT). See Sec. 11, Merchant Ship Sales Act of 1946; Sec. 204, Reorg. Plan No. 21 of 1950, 64 Stat. 1279; Sec. 202, Reorg. Plan No. 7 of 1961, 75 Stat. 837; Secs. 3, 5, 10 and 12 (157), Pub. L. 97-31, 95 Stat. 151.

The meticulous amendments in Pub. L. 97-31, which transferred MarAd to the Department of Transportation, were not limited to technical amendments. The transfer of "functions" and "powers" theretofore vested in the Secretary of Commerce with respect to maritime matters (P.L. 97-31, Secs. 3 and 5) also served to convey the shipping responsibility in mobilization and emergency preparedness, notably Executive Orders 10480 and 11490. Any creation of another reserve fleet of merchant vessels would hamper the efficient mustering of all merchant vessel sealift assets which is now vested solely in the SOT.

The latest confirmation of the SOT's prime responsibility for the entire NDRF occurred in August 1985 when the proposes recodification of the remainder of Title 46, U.S. Code was transmitted to the Congress by the administration.[2] With respect to the mobilization of merchant vessel sealift noted in the next paragraph above, the recodification finally included statutory recognition of the National Shipping Authority.[3]

Interestingly, responsibility for the NDRF was reflected in an unusal manner in 1976, after the official creation of the RRF. The Comptroller General had proposed a series of recommendations relating to the NDRF to be pursued by the Secretaries of Commerce and of Defense. When involvement of the Secretary of Defense in matters assigned to the Secretary of Commerce, was pointed out, the draft report was changed. B-118779, "The National Defense Reserve Fleet—Can It Respond To Future Contingencies?" (October 1976).

No sound reason to amend current law to transfer RRF to MSC

As already demonstrated, the creation of another reserve fleet of merchant vessels in the MSC (or any other organization within the Navy) requires statutory amendment. The clear langauge and practical implementation of Sec. 11 of the 1946 Act over the years vests the NDRF and all of its components solely in the SOT. As shown in the main report, there are sound and longstanding policy reasons for the current law. There is the further consideration that the present arrangement permits the availability of the reserve merchant shipping capacity for limited Non-defense purposes which scarcely could be permitted if the laid up vessels were transferred to the military.

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[2] "Section 709 National Defense Reserve Fleet. The Secretary of Transportation shall maintain a National Defense Reserve Fleet consisting of those vessels now owned or hereafter acquired which the Secretary, after consultation with the Secretary of the Army and the Secretary of the Navy, determines are of value for national defense purposes and which the Secretary decides to place and maintain in the National Defense Reserve Fleet."

[3] "Section 707 National Shipping Authority. There is in the Maritime Administration a National Shipping Authority, headed by a Director responsible to the Maritime Administrator."

"Section 708 Functions of the National Shipping Authority. The National Shipping Authority shall perform functions in connection with the formulation and execution of plans and programs for the operation, acquisition, and allocation of merchant vessel and other function as the Maritime Administrator may from time to time direct."

Finally, no concern over Sec. 902 of the 1936 Act can serve as cause to justify transfer of the RRF to the MSC. Such a concern would be that no Presidential proclamation currently outstanding permits requisition of ships by the Secretary of Transportation; therefore, the instant availability of surge shipping requirements for defense in the form of the RRF is not guaranteed. This question was raised by the Defense Department in 1979 and addressed by the Comptroller General (B-181714, "A Time To Consider Alternative Sources Of Quick-Response Sealift Capacity") and in legislative testimony (Hearings on the proposed Ocean Shipping Act of 1979) during that year. The MarAd testimony in the above hearings realistically set the scene for breakout of any NDRF vessels for operations and observed that the Presidential proclamation under Sec. 902 to activate the NDRF would be a "trivial" element of the much grander decision to project our armed forces anywhere in the world. In short, the decision to commit forces will be accompanied by many complementary actions of the President, and the requirements of Sec. 902 of the 1936 Act will be among them. The tripling of MSC's fleet (either in reserve or active status) cannot be justified on such technical and unrealistic grounds.

In summary, then, no existing law authorizes transfer of any part of the NDRF to create a new reserve fleet of merchant vessels; no basis for amending the exising statutory authorities has been advanced; and, therefore, no modification of existing statutory provisions relative to the NDRF ought to be undertaken in the absence of any sound reasons.

RESPONSE TO SENATORS STEVENS AND INOUYE

At the May 16 Hearing before the Senate Committee on Commerce, Science and Transportation on the Maritime Administration FY 1987 Authorization, Senators Inouye and Stevens requested that the Maritime Administration (MarAd) and the Military Sealift Command (MSC) comment on an amendment to H.R. 4175 that would amend the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744) to read as follows:

"SEC. 11. (a) The Secretary of Transportation shall maintain a National Defense Reserve Fleet (including the Ready Reserve Force or any component of that fleet) consisting of those vessels owned or acquired that the Secretary, after consultation with the Secretary of the Army and the Secretary of the Navy, determines are of value for national defense purposes and that the Secretary of Transportation decides to place and maintain in the National Defense Reserve Fleet."

This differs from the proposed recodification of a portion of Title 46, U.S. Code, submitted by the Administration in August 1985 by the inclusion of the parenthetical phrase: "(including the Ready Reserve Force or any component of that fleet)."

MARAD concludes that the amendment is not necessary as a matter of law because it merely restates the current law. MarAd has always maintained that the Ready Reserve Force (RRF) is a component of the National Defense Reserve Fleet (NDRF) for the following reasons:

(1) It is consistent with longstanding Administration policy.

(2) It is consistent with legislative enactments over the course of four decades.

(3) It is the most cost effective way to maintain the RRF.

(4) It will continue to assure the additional merchant shipping surge required by current defense planning sealift doctrine without causing disadvantage to the existing privately-owned merchant fleet.

(5) MarAd has managed the NDRF/RRF program to date very successfully. Therefore, no reason exists to radically alter the system in place.

(6) It will continue the civilian control of merchant shipping required to satisfy the priorities involving military operations and general economic support of the private sector under both normal and contingency situations.

LEGAL

The legal basis for concluding that no change in the law that would mandate the transfer of the RRF component of the NDRF to MSC has occurred in the past, or is necessary now, appears as an appendix to this report.

POLICY

The policy of maintaining a defense reserve of merchant ships under the authority of a civilian agency was established after World War I. In 1920, the U.S. Shipping Board began to retire its fleet of warbuilt vessels from service, due to a lack of demand for tonnage and because many vessels in the fleet were not suitable for peacetime use. By the end of fiscal 1922, the number of vessels in the laid-up fleet peaked at 1,207. More than 750 of the vessels were sold for dismantling or scrapping. Disposition of the remaining WWI-built ships was assumed by the U.S. Maritime Commission at its creation in 1936. Some of the remaining vessels were turned over to friendly nations at the start of World War II, and some were reactivated to furnish support for U.S. armed forces.

The NDRF was established by Section 11 of the Merchant Ship Sales Act of 1946 (H.R. 3603). The purposes were detailed in the House Merchant Marine and Fisheries Committee Report on H.R. 3603, which stated in part:

In order that the United States will have available for any future emergency vessels over and above those in the active merchant marine at that time, [emphasis supplied] the bill (sec. 11) directs the Commission to place in a national defense reserve (1) all vessels owned by it which it determines, after consulation with the Secretary of war and the Secretary of the Navy, should be retained for national defense, and, in addition, (2) all vessels owned by it at the expiration of 2 years from the cessation of hostilities, for the sale of which a contract has not been made by that time, with the exception of vessels determined by the Commission to be of insufficient value for commercial and national defense purposes to warrant their maintenance and preservation.

Vessels placed in the national defense reserve are, except as otherwise provided by law, to be preserved and maintained by the Commission for national defense purposes only. They may not be used for commercial operation except when the President proclaims that the security of the national defense makes it advisable to requisition vessles, or during periods of national emergency proclaimed by the President:

Since WWII, there have been four major periods when ships from the NDRF were broken out in support of U.S. military operations and world economic crises:

TABLE 1.—SUMMARY OF BREAKOUT OF SHIPS NDRF

Koreran war	163 ships	March 1951
World Shipping Shortage	562 ships	January 1952
Coal to Europe	1,423 nonmilitary voyages	
Grain to India	242 military voyages	
Suez Crisis	233 dry cargo 24 tankers	July 1956
Vietnam	172 dry cargo	1965–1969 [1]

[1] 30 percent of cargo during 1965-1969.

It is clear that the NDRF not only has played a significant role in military operations, but it has been invaluable in support of civil cargo movements when required by national policy.

As years passed and the NDRF grew older, the concepts of military deployment evolved, and concern grew as to the ability of the aging ships to support the military requirements. The concept that became the RRF took shape in the mid-1970s as it became apparent that the surge sealift capacity immediately available to the Department of Defense might not be sufficiently responsive. Additional considerations included situations where the early use of ships from the Sealift Readiness Program (SRP) might disadvantage the private U.S.-flag merchant fleet.

Question. What is the status of discussions with Navy over manning issues?

Answer. MarAd has submitted data and technical comments and is awaiting Navy's final report.

QUESTIONS OF SENATOR GORTON AND THE ANSWERS

Question. I understand that the Administration's budget would prohibit the Secretary of Transportation from complying with the cargo preference compromise incorporated in the farm bill. In light of the incredible difficulties in reaching this accommodation, and in light of the far higher potential exposure to the government if the District Court's decision is upheld, why is the Administration resisting this modest expenditure ($48,000,000)?

Answer. The Administration strongly opposed enactment of the compromise because it represented expansion of the cargo preference laws. We believe it goes beyond solving the controversy engendered by the decision in *Transportation Institute* v. *Dole* and does not return us to the status quo that existed prior to that court decision. We are also concerned that the compromise will prove costly and create a substantial administrative burden on the Departments of Agriculture and Transportation.

However, the Administration has agreed to pursue alternative ways to reduce the cost of cargo preference. This includes an examination of savings that can be achieved by reforming the way the cargo preference program has been traditionally administered. The Maritime Administration, along with the agencies responsible for administering the program (USDA/AID), are meeting to pursue various cost-saving measures.

Question. The Administration has requested $5.5 million for research and development. How does this compare to last year? Do you think this program is effective in making our maritime industry and shipyards more competitive?

Answer. The FY 86 Appropriation for research and development was $9.9 million, later reduced to $9.47 million by Gramm-Rudman-Hollings. The FY 87 request of $5.5 million for R&D represents a reduction from the appropriated level of $9.9 million in FY 85 and FY 86. This reduction reflects the Administration's determination to bring the Federal budget deficit under control. In the case of the maritime R&D program where major emphasis has been given to projects broadly characterized as "industry assistance," the reduced level of funding proposed for FY 87 reflects the Administration's position that such R&D is the responsibility of the private sector.

We believe MarAd's R&D program has been effective in stemming the widening gap in the competitive imbalance between U.S. and foreign maritime industries. However, in this period of severe budgetary constraints we must determine the optimal use for scarce Federal monies in aiding the industry. In this instance, the Administration believes the Federal Government no longer can afford to fund industry-specific R&D, which it considers to be more appropriately a private sector funding responsibility. During FY 87, we will work closely with all of the maritime industries (ship operating, shipbuilding, marine equipment, ports and terminals, etc.) to accomplish a transition over to private sector leadership and funding of the ongoing R&D program, while at the same time, refocusing MarAd's own efforts on projects which support national needs and MarAd's missions, and which attempt to solve those problems deemed most critical.

QUESTION OF SENATOR INOUYE AND THE ANSWER

Question. The Maritime Administration issued Notices of Proposed Rulemakings, Dockets R-104 and R-105, which would establish guideline rates for liner parcels of bulk preference cargoes and require agencies to consider the ODS received by subsidized operators in evaluating bids. These guideline rates would, among other things, provide for the use of averages in determining operating costs.

Is MarAd's proposal designed to allow recovery by all U.S.-flag liner operators of their individual costs plus a reasonable profit?

If the proposal does not allow recovery of cost plus a reasonable profit by all U.S.-flag liner operators carrying preference cargo, what elements of the fleet can be expected to realize less than a reasonable profit?

If, on a voyage or during a certain time period, a U.S.-flag liner operator's carriage of non-preference cargo and preference cargo not subject to "subsidy abatement" does not afford the operator a reasonable profit, what basis is there for subsidy abatement, which obviously in these circumstances will preclude a reasonable profit overall?

It has been said that it is the intention of R-104 and R-105 together to secure lower rates for the government at the direct expense of reasonable profits by certain operators who for some reason have a higher operating cost per voyage than others. Would you please comment.

Answer. MarAd's proposals as contained in Dockets R-104 and R-105 are designed to permit the carriage of bulk preference cargoes in liner vessels at fair and reasonable rates for the Government as well as the operators. In this regard, the Comptroller General in 1955 stated that the term "fair and reasonable rate" did not necessarily mean the going market rate, but would appear to call for reasonable compensation, including a fair profit, for *efficient* vessels (Opinion B-95832, February 17, 1955). Our proposal, would utilize average operating costs on a fleetwide basis, and would incorporate actual capital costs and a reasonable return for investment. These costs would be used to establish guideline rate ceilings against which bids of the U.S.-flag operators would be evaluated. Such a system would be advantageous since it would encourage *efficiency* measures. The separate treatment of operating cost data and capital cost data recognizes the varying degrees of control that an operator has over different categories of costs. The vessel operator can exercise some control over operating costs. In contrast, capital costs are dictated to a large extent by prevailing conditions in the financial markets and are by and large beyond an operator's control. In our view, the proposals in R-104 and R-105 would allow the recovery of a fair and reasonable cost plus a reasonable profit for the more efficient vessels.

The proposals in R-104 and R-105, from both the Government's and the operator's standpoint, would allow the recovery of a fair and reasonable cost plus a reasonable profit by the more efficient U.S.-flag liner operators carrying dry bulk preference cargoes. To the extent that this system would disadvantage certain operators, we would expect that only older, inefficient vessels with operating costs substantially higher than those of their U.S.-flag competitors would be affected.

Neither R-104 nor R-105 abtes subsidy. R-105 requires the shipper agencies to consider ODS as a cost to the Government in evaluating bids by liner operators for the transportation of dry bulk preference cargoes. Should a subsidized operator's bid plus ODS be lower than the bid of a competing unsubsidized operator, the subsidized operator would receive the apporpriate fair and reasonable rate for the cargo from the shipper agency and ODS from the Maritime Administration. Existing regulations in force, 46 CFR 280, require percentage reductions in ODS when subsidized liner operators' annual revenues for the carriage of noncompetitive preference cargoes exceed certain parameters.

The Administration has proposed legislation that in effect would eliminate the payment of ODS for the carriage of military and "premium-rated" civilian preference cargoes. In this regard, the purpose of operating-differential subsidy is to reduce the cost disparity that U.S.-flag operators suffer in comparison with their foreign competitors. Although it is an extremely important issue in terms of a company's viability, profitability is not considered in the context of determining ODS amounts. Presumably, when world market conditions are favorable, U.S. and foreign operators alike are generally profitable. Conversely, everyone shares in the financial uncertainty brought on by major slumps in the markets such as have been experienced worldwide in recent years. The proportional repayment of ODS for the carriage of military and "premium-rated" civilian preference cargoes, as provided in the Administration's legislative proposal, is intended to focus the payment of subsidy to service which has direct foreign competition for these cargoes. In the case of civilian preference cargoes, fifty percent is generally transported on foreign-flag vessels at world freight rates, and the remaining fifty percent is generally carried on U.S.-flag vessels at somewhat higher rates. (U.S.-flag vessels carry sixty to seventy-five percent of agricultural cargoes covered by the Food Security Act of 1985.) To the extent that U.S.-flag vessels are available at fair and reasonable rates, there is no foreign competition for the government share of these cargoes. Thus, U.S.-flag operators essentially compete against each other at similar cost levels for the military and civilian preference cargoes that are reserved for U.S. flag and there is no need for ODS. Furthermore, subsidized U.S.-flag operators would attempt to carry more commercial cargoes to compensate for any loss of preference cargo subsidy.

The intention of R-104 and R-105 is to secure fair and reasonable rates for both the Government and the more efficient liner operators for the carriage of dry bulk preference cargoes.

QUESTIONS OF SENATOR STEVENS AND THE ANSWERS

Question. Please provide a detailed memorandum on MSC's views of the provision in H.R. 4175 which clarifies the Maritime Administration's role with respect to the Ready Reserve Fleet.

Answer. H.R. 4175 has been amended to delete the provision pertaining to the Maritime Administration's role with respect to the National Defense Reserve Fleet and the Ready Reserve Fleet. The Administration's views on this provision were provided to the Congress in its Statement of Administration Policy on H.R. 4175 dated June 11, 1986. That statement advised that the provision is unnecessary.

Question. Please provide a comparison of the MSC's procurement procedures and those utilized by the Military Airlift Command.

Answer. [The comparison follows:]

COMPARISON OF PROCUREMENT SYSTEMS USED BY NAVY'S MILITARY SEALIFT COMMAND AND AIR FORCE'S MILITARY AIRLIFT COMMAND

The methods of procuring cargo transportation used by the Navy's Military Sealift Command and the Air Force's Military Airlift Command are governed by the Armed Services Procurement Act, 10 USC § 2301, as amended by the Competition in Contracting Act and as implemented by the Federal Acquisition Regulation. Both methods recognize the potential for augmentation of organic fleets in situations short of full mobilization. To meet this requirement the Navy developed the Sealift Readiness Program, in addition to other programs. The Air Force developed the Civil Reserve Air Fleet Program. The basic difference between the procedures used by Navy, through Military Sealift Command (MSC), and those used by the Air Force's Military Airlift Command (MAC) for procuring space from ocean carriers and air carriers respectively, is that under the Navy method the rates charged the Government by the ocean carriers are based on full and open competition. Under an agreement between the carriers and MAC, carriers are paid uniform rates based on a composite of carrier submitted cost data and a profit margin.

Navy's space procurement method is based on four premises:

In compliance with the Competition in Contracting Act, P.L. 98-369, the first premise of the Navy method is that ocean transportation, similar to other services, will be procured on the basis of full and open competition. The only modification to this full competitive policy is in the case of DOD liner cargoes where certain maximum percentage of cargo limits have been imposed for some major routes. This conforms to Navy policy by ensuring the long term viability of at least two companies on those routes so that competition can always be maintained.

The second premise is that the Government should do business in the same manner as the other commercial users of these same ocean liner services. Under the Shipping Act of 1984, any commercial shipper may enter into service contracts, or contracts based on time and cargo volume, at rates below tariff. This is similar to MSC's container/shipping agreements. Commercial shippers pay the market rate based on conditions of supply and demand. The Government ocean shipper negotiates on the same basis.

Current market conditions for the liner industry reflect major trade imbalances between exports and imports. This has caused carriers to ship empty containers outbound to ensure sufficient containers are in place overseas to met inbound demand. As a result, outbound cargo under these conditions is routinely carried below tariff rates, usually at a rate which just covers the additional handling, drayage/linehaul, and inventory charges. At other times, when there is a greater volume of outbound cargo, carriers charge higher rates to both commercial shippers and Navy.

The third premise is that pursuant to Section 101 of the Merchant Marine Act of 1936, 46 USC § 1101, the Maritime Administration (MarAd) is responsible for promoting the merchant marine. While the Navy strongly advocates a robust U.S. flag merchant marine, MarAd is the agency responsible for promoting the merchant marine's health and welfare. MarAd provides subsidies to offset higher U.S. wages and costs so that U.S. flag carriers remain competitive in the international market. Additionally, the various cargo preference laws (e.g., 10 USC § 2631, applicable to 100% of DOD cargo; Public Resolution 17, 46 USC § 1241-1, applicable to exports under Government loan programs, and 46 USC § 1241 (b), applicable to at least 50% of all government-impelled cargo) provide U.S. flag carriers an advantage over their foreign competition in the form of outbound cargoes, to help balance their voyages.

The last premise is that Navy has channeled *all* Military cargo to commercial carriers and will continue to do so. There are no Government owned cargo ships in service. The MSC commercially chartered fleet has been cut by more than half over the last few years. As a result, more than 70% of DOD tonnage is being moved on liner ships each year. MSC sizes its commercially chartered fleet to meet only those requirements that cannot be met by the regularly scheduled U.S. flag liner ships.

In implementing its procurement system, Navy semi-annually solicits rates for both breakbulk and container service from ocean common carriers. Carriers offer rates on the routes they serve. In connection with their container services, carriers also offer joint through rates with participating inland carriers between various inland points in the U.S. and various overseas inland points. MSC awards contracts, similar to a requirements contract, to all carriers who offer rates. As a condition for award, carriers are required to agree to commit half of their ships to Navy's Sealift Readiness Program. Under this program, ships may be selectively chartered when the Secretary of Defense and the Secretary of Transportation jointly determine such action is necessary. The SRP is now recognized in section 909 of the Merchant Marine Act of 1936, 46 USC § 1248, which provides that no vessel may receive a subsidy if it is not offered for enrollment in the SRP. As ocean shipping requirements arise, cargo is booked in order of cost favorability to the Government to the carrier whose service best meets the specific requirements of the cargo. On certain major routes, Navy limits the amount of cargo any one carrier may transport, pursuant to a finding by the Assistant Secretary of the Navy (Shipbuilding and Logistics) that it is in the interest of national defense to have more than one supplier.

Similar to the Navy program, the cornerstone of MAC's Civil Reserve Air Fleet program is the allocation of peacetime passengers and cargo in exchange for a commitment of airplanes by the carriers to be called up by DOD in three stages. The Commander, MAC can call up aircraft under stage I (long range aircraft); the Secretary of Defense can activate stage II (short range aircraft (Alaskan and domestic service)); and stage III (all committed aircraft) is activated by a Presidential or Congressional declaration of national emergency. Stage III of CRAF thus corresponds to the authority of the Secretary of Transportation to requisition ships pursuant to section 902 of the Merchant Marine Act of 1936, 46 USC § 1242.

MAC utilizes a formula to determine the mobilization value of the aircraft committed. This process is facilitated by the fact that most airlines use aircraft of the large passenger and cargo type most needed by MAC is crises, e.g. 747s, 707s, DC-10s and DC 8s. The maritime industry, on the other hand, stands in marked contrast. They very types of ships which DOD will most need in an emergency, i.e. "militarily useful ships," such as lighter-aboard ships, roll-on/roll-off and breakbulk ships, are the least efficient commercial ships. Conversely, the most efficient commercial ships are large nonselfsustaining container ships, which are the least militarily useful ships in a crisis. To meet surge sealift requirements the Navy in recent years has been procuring militarily useful ships for inclusion in the Ready Reserve Force (RRF). Ships in the RRF thus correspond to stages I and II of the CRAF program.

A few other comparisons between Navy and MAC methodology and routine are of significance. Navy relies on the liner segment of the U.S. merchant marine to move about 5.4 million measurement tons (MT; one MT=40 cubic feet) of military cargo annually during peacetime. MAC only ships about 61,000 ST of "channel cargo" annually in U.S. flag commercial airlines. "Channel cargo" is all cargo, other than passengers, moving in regularly scheduled service to previously established destination points. In FY 1985, Navy paid $445 million to U.S. flag liner companies. MAC paid $390 million to U.S. flag airlines for channel cargo. There are also other significant differences in transportation requirements to which MSC and MAC respond. DOD liner shipments for ocean transportation are rarely of sufficient volume to generate an entire shipload. Most such cargo is of a continuous regular nature to support troops overseas and is ideally suited for the regularly scheduled berth line service offered by U.S. flag shipping companies. In contrast, MAC meets its channel cargo requirements through either Air Force owned aircraft or charters of entire aircraft for periods of one year or less—approximately 18% of MAC's channel cargo business is performed by charters. Scheduled airlines frequently have the ability to make their aircraft available for short term charters (e.g., a one-time flight from point A to point B, which can be accomplished in a day or two). Scheduled shipping lines, on the other hand, do not have that flexibility. Accordingly, MSC must operate a small number of U.S. flag time-chartered commercial dry cargo ships (also contracted under full and open competition) to provide that capability not usually available from berth line ships. "Spot" charters for ocean movement of dry cargo are rare.

When the CRAF program began in the early 1950's, the Civil Aeronautics Board (CAB), established minimum rates using cost data submitted by the carries. The CAB had authority to establish just and reasonable rates under the Civil Aeronautics Act of 1938, 49 U.S.C. § 1301 ff. Now that the CAB has been abolished, MAC itself establishes the rates using the ratemaking principles formerly used by the CAB. The carriers furnish cost data to MAC pursuant to a Memorandum of Understanding between MAC and each carrier. Available peacetime passengers and cargo are allocated to each participating carrier in proportion to their commitment to the CRAF program.

The Federal Maritime Commission (FMC), in contrast, has never had full ratemaking authority in foreign commerce under the Shipping Act of 1916, 46 U.S.C. § 801 ff. Under Section 18(b)(5) of that act, 46 U.S.C. § 817(b)(5) (repealed 1984), the FMC had authority to "disapprove" rates which it found, after hearing, "to be so unreasonably high or low as to be detrimental to the commerce of the United States." During 1971-72, the Sealift Procurement and National Security (SPANS) study was conducted by senior members and staff of the Office of Management and Budget, DOD, MarAd, FMC and industry representatives, in response to allegations that DOD's procurement system had forced carriers to offer rates below costs. The study found that, overall, DOD cargo was compensatory. As one of the results of the SPANS study, the FMC promulgated its General Order 29, 46 CFR part 549, which decreed that FMC would disapprove any rates offered MSC which were below the carrier's fully distributed costs, and required a senior official of each company to certify that its rates were fully compensatory. Thereafter, the FMC ordered several investigations, but never found any rates offered DOD to be below compensatory levels. In 1981, FMC suspended General Order 29 because it found that rates offered MSC were "substantially above" the carriers' costs. General Order 29 was cancelled entirely in 1984 following the repeal of section 18(b)(5) of the Shipping Act of 1916 by section 20 of the Shipping Act of 1984, P.L. 98-237. The FMC presently has no authority over rate levels in foreign commerce, the philosophy of the Shipping Act of 1984 being to replace government regulation with regulation by the competitive forces of the marketplace. Navy's procurement system is fully consistent with this philosophy of full and open competition.

Question. Please provide detailed information on what the $1 million for each Ready Reserve Fleet vessel is used for.

Answer. $84.1 million is set aside in the Navy's FY 1987 Operation and Maintenance budget for 93 RRF ships. This amount is broken down as follows:

$22.7 million--upgrading;
$22.7 million—activation, including breakouts for exercises;
$38.7 million—maintenance.

QUESTION OF SENATOR GORTON AND THE ANSWER

Question. You maintain that the personnel needs Military Sealift Command can be met by continuation of the Maritime curricula at the state maritime academies. How can graduates of these academies maintain their training and skills if they can't get jobs after they graduate?

Answer. Maritime Academy graduates are tested and licensed by the Coast Guard when they graduate. Both deck officers and engineers are required to renew their licenses every five years. The Coast Guard is responsible for the issue and renewal of licenses and for licensing criteria. Deck officers with sailing time within the last three years are required to pass an open-book test on the "rules of the road." Those without sailing time must certify their affiliation with the maritime industry and pass a closed book test on the "rules of the road." Engineers are not retested at the time of renewal nor is there a requirement for sailing time. MSC requires that officers on MSC ships hold valid unlimited Coast Guard licenses.

Senator STEVENS. Our last panel is Rear Adm. Floyd Miller, accompanied by Admiral Swarztrauber, Admiral McNulty, and Admiral Aylmer.

We have had several items submitted for the record for this hearing and the one which just preceded it, our staff will put those in the record at the appropriate place.

I have a letter here from Senator D'Amato, who states that it is his understanding that:

> Today Admiral Haus Miller of New York State Maritime College will testify with your subcommittee on the proposed budget of the Maritime Administration' program on maritime education.
>
> I have seen Admiral Miller's testimony, and I wholeheartedly endorse his proposals and sentiments. Last Saturday I was privileged to be the commencement speaker at the New York Maritime College, and I know firsthand the wonderful record and current role of this long-respected institution. I am very concerned that some of the proposals now being pushed by the Maritime Administration would do serious and irreparable harm to this vital national resource.
>
> I urge you to do what you can to help maintain our system of maritime education as it now stands. Our high standards must not be lowered, and this important program must not be destroyed.

I thought, Admiral, you would like to see that your Senator has dropped us a note.

STATEMENTS OF REAR ADM. FLOYD H. MILLER, PRESIDENT, STATE UNIVERSITY OF NEW YORK, MARITIME COLLEGE, FORT SCHUYLER, BRONX, NY, ACCOMPANIED BY REAR ADM. (RET) S. A. SWARTZTRAUBER, SUPERINTENDENT, MAIN MARITIME ACADEMY, CASTINE, ME; REAR ADM. JAMES F. McNULTY, USMS, PRESIDENT, GREAT LAKES REGION, MARITIME COLLEGE, TRAVERS CITY, MI; AND REAR ADM. JOHN F. AYLMER, USMS, PRESIDENT, MASSACHUSETTS MARITIME ACADEMY, BUZZARDS BAY, MA

Admiral MILLER. Yes, sir. We love him.

Senator STEVENS. Do you have a statement?

Admiral MILLER. Yes, sir, we have a statement that I would like to submit for the record, and then I would like to summarize it. Actually, I should say Senator Inouye helped summarize it, but I would just like to reemphasize some points.

Before testifying, Senator Stevens and also Senator Inouye, I would like to express our appreciation on behalf of all the State academies for your help in the past, in both appropriations and authorization.

As you know, we, as witnesses here today, are here to address a new crisis in our Nation's vital merchant marine, that of the administration's budget proposal not to continue Federal support for the State maritime academies. Since 1874, our Federal, State, and I emphasize student relationship has been responsible for recruiting and training new lifeblood for our Nation's merchant marine.

We have been called upon in peace, and we have been asked to double up in national emergencies. Today we face the possibility of shutting down. The stated reason for this decision is an oversupply of merchant marine officers.

As you could hear here today, MarAd and OMB's decision to sever Federal support was made without study, no review of the situation and, more importantly, without an input from the Department of Defense and those concerned with strategic sealift. This anamoly was pointed out by Senator Inouye, reading Vice Admiral Hughes' comments before the Fifth National Mobility Conference and, of course, by Admiral Piotti's comments as well.

Sir, if the state maritime academy program is terminated, our Nation's primary source of input to the U.S. Naval Reserve/Merchant Marine Reserve, will dry up. In addition, our Nation's supply of merchant marine officers will, as well.

Also, and I think this is very important, the State maritime academy training ships will no longer be ready to serve on short notice. Even though they are old, they are presently programmed to be utilized as troop ships to meet DOD's 17,000 troop lift requirement.

These ships are widely dispersed around the Nation and are not in vulnerable reserve fleets. They are at our free campus piers getting free electricity. They are maintained by free labor, our cadets, and the States share expenses; for example, paying for consumables such as paint, light bulbs, mooring lines, and lubricating oil and they are operated at least annually.

MarAd is eager to strike them as navigable vessels. This is clearly not in our Nation's best interest. Without these ships, our cadets will have great difficulty in meeting the federally mandated license requirements. Our States and students pay most of the cost of operation of our schools.

This administration talks of "privatization." We submit that we are privatized. We submit that our Federal, State, and student relationship, a relationship that has existed for 112 years, is cost-effective. Should we be forced to shut down and cutoff 70 percent of our Nation's merchant marine officer supply at a time when the average age of the officers sailing today is reaching retirement?

Senator Inouye discussed our employment, and I will not address it again. I would like to just address one of Mr. Gaughan's responses to Senator Inouye's questions.

Taking from MarAd's figures alone, he mentioned those cadets that are not taking their commissions. My figures from MarAd showed it was 63 percent, but I would like to address that even more so, sir.

First of all, not every cadet is allowed to be in SIP. There are not enough payments to go around in every class. Second of all, the class that graduated in 1985 that he is addressing is a victim of Federal redtape, and I would like to present, if you would for the record, a copy of a Navy recruiting form which gives these cadets an option of not taking their commission.

That has long since been taken care of, but the class that graduated that we are being taken to task for are the ones who were the last ones that were signed up under this program. The new cadets in the program today are no longer under that. I can validate that, because I was Commander of Navy Recruiting Command when this form was in existence for the last class, so they did not have to sign up.

It says, I do desire or I do not desire a commission, and they had to make that determination right before they were commissioned. That no longer is in effect, but we are still being taken to task for that particular issue.

He mentioned about the price, the cost of graduating cadets. We keep going round and round about this, and I just shake my head every time I hear it. He is claiming now that the cost for my school, New York Maritime, costs for a SIP student, $54,000 over a 4-year period. Yet I have a piece of paper signed by his assistant, Mr. Arthur Freedberg, signed out to me in January which says, the cost is $19,000 over a 4-year period.

All of us together figure that our costs per graduate, and this is averaged across all the State academies, the Federal cost for a graduate taking SIP is $17,000. H.R. 4175 puts more teeth into the SIP Program than is even in it today with the new program that we are under. I think it is a stronger measure, and I certainly support it.

Congressmen Walter Jones and Mario Biaggi have sponsored a House bill, H.R. 4175, that provides $9 million of Federal support to the six State maritime academies. It does not increase the total Maritime Administration budget. It does represent a reduction of 24 percent in the annual State maritime academy budgets which we accept as part of our burden of the Federal deficit.

I hasten to point out it does match our drop in overall enrollment. Our enrollments are down on an average of about 25 percent. We would request a similar bill in the Senate.

We would be pleased now to answer any questions that you may have.

Senator **Stevens**. You heard the statements of the two witnesses in the preceding panel that they would have no objection to the maritime academies using vessels from the reserve fleet. Have you pursued that?

Admiral **Miller**. We have discussed this off and on, sir, for the last 2 or 3 years. I do not think any of us would have any objection in being a general agent for an RRF ship.

Senator **Stevens**. How many would you be able to use?

Admiral **Miller**. That depends upon the size and the availability alongside the piers. I would say we could probably use about four.

Senator **Stevens**. Their cost is $1 million a year just to tie them up.

Admiral **Miller**. Yes, sir. The problem is pier space at the present time.

Senator **Stevens**. What if we gave you $1 million for each vessel you took, Admiral?

Admiral **Aylmer**. Senator, Admiral Aylmer, Massachusetts.

I have had in the hands of the Maritime Administrator a letter, representing a specific request of just what you described, RRF outporting at mass maritime for over 6 months without any formal reply.

Senator **Stevens**. As I understand it, you all have docks, and you have services. We have a problem with sustaining your program. As I understand it we have to come up with some more money to convert that New York replacement vessel, do we not?

Admiral **Miller**. That money was appropriated in 1984, and then a deferral was requested, and the deferral was denied last year.

Senator **Stevens**. I thought we got you the money to acquire it, but did we give you the money to convert it?

Admiral **Miller**. No, sir. The bid is out now, the solicitation, so we have to see what ship comes in, and at that time we may or may not need any more money.

Senator **Stevens**. Why do you not take one of these vessels?

Admiral **Miller**. It has to be a vessel that could be converted to, in essence, a troop ship so that we can carry our cadets on a training cruise.

Senator **Stevens**. Is there any in the reserve fleet that would satisfy that need?

Admiral **Miller**. There is one that is being looked at right now against all the other solicitations, and that is the *Santa Ana,* which I understand is in the RRF fleet, but we are waiting to see what solicitations come in from the industry as a whole.

Senator **Stevens**. Well, my good friend and I are on both this committee and the Appropriations Committee. We could take care of that next week for you if you want it. The question is: How can we utilize the money that is directed toward tying these vessels up to the dock in a more efficient manner, vis-a-vis National Maritime Program? If you all want these vessels, we are prepared to ask the

Congress to assign them to you and provide you with the $1 million it is costing in upkeep.

Admiral MILLER. One thing, sir, I would like to just make sure there is no misunderstanding, that we are talking about RRF ships and not training ships. These vessels would be used as training alongside the normal academic use.

Senator STEVENS. I understand that. It is another ship you would have tied up at your dock, and you would get the $1 million for keeping it up. The people in your academies would be responsible for the upkeep, but you would have the $1 million provided to you.

Admiral MILLER. Yes, sir.

Senator STEVENS. You already have docks.

Admiral MILLER. Yes, sir. We would have to nest our training ship.

Senator STEVENS. We might not have to pay $3 million a year to dredge access to them.

Admiral MILLER. It is pretty deep out where we are.

Senator STEVENS. I worry about our reserve fleet. Do you?

Admiral AYLMER. I can speak in behalf of the *Patriot State*, which is the singular training ship that already has an RRF classification. Of course, the RRF requirements of readiness are quite clear to the academy. She does cruise, as she is doing so right now, on a 2-month training cruise.

When I heard of the general outporting program, I inquired of MarAd and asked to be listed as a potential general agent for the outporting for an additional ship. We have the space at Buzzards Bay in Massachusetts to husband two ships, and to date I have not had any response whatsoever in terms of that request that the academy be considered for general agency in terms of outporting.

Senator STEVENS. We will join in a letter to get you a response. I cannot understand why. If we are going to pay $1 million for someone to tie up one of these ships at a dock, I don't understand why we cannot make certain that you all come first.

It seems to me that this is a way for your academies to acquire some money and an additional vessel and for us to be assured that we have a Ready Reserve. Believe me, we stand ready to help you.

Senator Inouye.

Senator INOUYE. Mr. Chairman, from my questioning of the second panel, I think it should be obvious where I am coming from. I am in full support of the State maritime academies, My observation of cadets, military academies, and such have long led me to conclude that West Point, the Air Force Academy, and Annapolis cannot provide all the officers necessary for our defense. You need the ROTC the NROTC, et cetera.

In the same way, if it were not for the State maritime academies, obviously Kings Point cannot provide all the necessary officers. That being the case, you can count on my help.

Admiral MILLER. Thank you, sir.

Admiral AYLMER. Thank you, sir.

Senator STEVENS. Senator Riegle?

Senator RIEGLE. Thank you, Mr. Chairman. I appreciate your courtesy in letting me come over.

Admiral McNulty is here from the Great Lakes Academy in Travers City. I just feel very strongly, based on the experience that we have had that, as Senator Inouye has just said, that critical training needs are part of our national security. We are just not able in the military academies as such to produce all the people that we need.

We are a maritime nation, and it is important that we remember that. So I feel very strongly that we ought to continue our support to the maritime academies. The one in Travers City is obviously very important to having the trained personnel to go out onto the Great Lakes, which is a very important commerce that we want to maintain.

In addition, we have many people today, professionals that are out on the lakes, who are of advanced age. While they are there now, they are going to be moving into retirement over the next 5, 10, 15 years, and we have to have a steady flow of trained personnel coming along behind them.

We are talking about a very modest amount of money. We are talking in the case of Federal support for the maritime academy in Travers City of about $136,000 a year. That is a critical amount to the school in the sense it is 26 percent of their operating funds.

So with a very small financial investment we are able to maintain a fine institution with momentum that is meeting an important national need, and at a time when we are losing jobs in lots of other categories, it seems to me very important that we maintain our capability in this area. That means good schools where we can give people topflight training so that we do not find ourselves pushed backward in this area as we have been pushed backward in a lot of other areas.

So I would hope that we could maintain the academies. I think they are important. I just want to stress how important I think the one is that we have in Travers City, particularly for Great Lakes traffic. I want to thank both of you for allowing me to make this statement today and also for your own leadership, Senator Stevens and Senator Inouye, in this very important area.

Senator STEVENS. Thank you very much. We have a very high regard for the work that these gentlemen do in the State academies, and we have pledged our support to them if they need any help in acquiring some additional vessels.

Do any of the rest of you have any additional comments to make?

Admiral MCNULTY. Thank you, Senator Riegle. We appreciate it.

Senator STEVENS. Thank you very much, and thank you, too.

[The statement follows:]

STATEMENT OF THE PRESIDENTS AND SUPERINTENDENTS OF THE MARITIME ACADEMIES/COLLEGES OF CALIFORNIA, NEW YORK, MAINE, MASSACHUSETTS, THE GREAT LAKES REGION, AND TEXAS

We, the Presidents and Superintendents of the State Maritime Academies/Colleges of California, Maine, Massachusetts, the Great Lakes Region, New York and Texas, appreciate the opportunity to testify relative to the Department of Transportation's proposed budget for the Maritime Administration's program in maritime education. Our major concern is the total elimination of Federal support as proposed by the President's budget for the State Maritime Academies thus opening the very real possibility that these schools could close.

The negative impact of this decision on the State Maritime Academies and on our National defense posture has been recognized by the Chairman of the House Committee on Merchant Marine and Fisheries and the Chairman of the Subcommittee on Merchant Marine. They have co-sponsored, along with other concerned Congressmen, House Bill HR 4175 which provides financial assistance in the amount of $9 million to the six State Maritime Academies. The bill does not increase the total Maritime Administration Budget; it meets the requirement by adjusting the funding projected for other activities within MarAd. The $9 million is not a full restoration of previous funding; it represents a reduction of 24% in the annual State Maritime Academy budgets which under the circumstances we accept. We are here today to request a Companion Bill in the Senate.

At a time when the Administration seeks to "privatize", their proposal to eliminate the State Maritime Academy program, one heavily leveraged by funds from the States and the students, is not understood.

The 1980 Federal Maritime Eduation and Training Act and predecessor acts make it very clear that the Federal Government has a long-lived partnership with the States supporting State Maritime Academies with equal access for residents of all States. This partnership has existed since the 1874 State Nautical School Act. It is a cost-effective method of producing licensed Merchant Marine officers for the industry afloat and ashore and for producing U.S. Naval Reserve/Merchant Marine Reserve commissioned officers. This partnership is cost-effective in that the States and the students share the majority of the schoolship costs with the Federal Government. Last year, for instance, the average cost to the Federal Government at the four-year deep-water State Maritime Academies for all its share of expenses, i.e., ship maintenance and repairs, fuel funding, student incentive payments and the $100,000 grant, was approximately $17,000 over a four year period. This $17,000 produced a Merchant Marine officer with an eight year Naval Reserve obligation. Our students and their families paid more out of their own pockets than this for their obligation.

A breakdown of costs at all the Maritime Academies is attached as Appendix A.

The Administration's stated principal reason for removing support from the State Maritime Academies is an "oversupply" of Merchant Marine officers. These figures were arrived at without consultation with the Department of Defense. The U.S. Navy has voiced concern for the availability of licensed personnel given the rapid decline of the U.S. seafaring manpower base. This was not considered in this budget. Quotations from a speech on 6 November 1985 by Vice Admiral T. J. Hughes, Deputy Chief of Naval Operations Logistics, to the Fifth National Strategic Mobility Conference, makes this concern clear. He stated, "As recently as two years ago, I used to make speeches that said we had to find ways to obtain additional shipping to meet our defense sealift requirements. In the interim, I was beseiged by studies that showed that sufficient manpower would be available in time of war. Today, I firmly believe that our ability to meet defense sealift requirements by 1990 will be limited not by the availability of ships but rather by the availability of a trained manpower base. Unless current manpower trends in the U.S. Merchant Marine are reversed, we will have to seek military alternatives—The net result is not just a ship problem, but also a serious manpower problem."

This concern was also noted in an April 1985 speech by Admiral James D. Watkins, Chief of Naval Operations, in which he said, "Can we allow this vital arm of sea power (Merchant Marine) to atrophy by default any further? I say no. If we do, our Nation could easily be crippled by determined foes and they know it."

As you can see from the above, there is a clear statement of need for trained merchant officers now and not just in 1990 because only the graduates of today will be able to upgrade their licenses to meet the full spectrum of the Industry's manpower requirements in the future. In the face of this need, the Maritime Administration has proposed elimination of all support for the State Academies while continuing to support only the U.S. Merchant Marine Academy at Kings Point. Will Kings Point be next?

The Maritime Administration as part of their "oversupply" argument does not recognize that the State Academies have reduced their enrollments. We react to the needs or, in other words, the supply and demand of the Industry.

What is likely to happen if these programs are terminated? We believe the outcome is fairly predictable. With the termination of Student Incentive Payments, the students will immediately petition for the elimination of their requirement to take naval science courses and will obviously not obligate themselves for eight years. Inputs to the Merchant Marine Reserve from its primary source will dry up. In addition, the approximately ten percent of our quality graduates that goes on active duty with the Navy will terminate. Today six flag officers in the Navy are graduates of the State Academies, one is Commander U.S. Seventh Fleet, another is Commander Military Sealift Command.

If the maintenance and support to the states is terminated, the states will simply reduce their appropriations to the Academies by $100,000. This, coupled with the removal of incentives for the students, will cause those State Academies without NROTC programs to reevaluate the cost and utility of the Navy program. Our continued relationship with the Navy would be unlikely and result in further estrangement between the Merchant Marine and the Navy. These perceptions of outcome are not threats or vindictive in nature and are certainly not desired by any of the schools but rather would be the natural result of the Federal Government's demonstrated lack of interest, need, support or appreciation of our programs. If you don't want us, we will be leaving.

Just as with our Nation's founding and successive legislators, it is our opinion the Federal Government has a stake in ensuring that there is an adequate level of education in Naval Science among operating officers of the Merchant Marine. This same partnership can produce Merchant Marine Reserve officers who are similarly qualified and available to man the Ready Reserve Fleet (RRF), the National Defense Reserve Fleet (NDRF), the Effective U.S. Control (EUSC) ships and provide necessary liaison officers and staff augmentees in time of mobilization. A system that does this with costs shared between the Federal Government, the State Governments and the students themselves is the most cost-effective for all sectors.

We believe that the Congress should provide some adequate level of support to the most cost-effective way of achieving its objectives. In terms of the Federal interest in the maritime education and training of licensed officers and Merchant Marine Reserve officers we think the criterion for determining cost-effectiveness is the Federal cost per licensed officer receiving an approved core of naval science education. We are confident that our programs justify Federal support measured against that criterion. They do so based on current cost.

The Administration states that the increasing maintenance and repair costs of the five training ships and major costs of replacements are not justified in the Federal Budget. The costs of maintaining the training ships have gone up primarily due to years of neglect by MarAd. MarAd only funded the bare minimum to meet Federal (U.S. Coast Guard) safety requirements. The total cost in 1985 for all five ships was $8 million dollars, out of a total Federal Budget for the State Academies of $12 million. The training on these ships produces over 700 officers per year.

The training ships offer another advantage to the Federal Government within this cost. Albeit old, they are an available and ready trooplift capability that does not exist in adequate numbers elsewhere in our inventory. The Maritime Administration does not recognize this fact and is eager to strike them as navigable ships. We submit that such action is not in the national interest given our mobilization trooplift requirement. It is interesting to note that the Navy's Director of Strategic Sealift on 11 March 1986 before the House Subcommittee on Merchant Marine stated that the Navy has included the five State Maritime Academy training ships in the calculations of troop-carrying capability. The Navy obviously needs them.

Note that our Nation's Ready Reserve Fleet (RRF) is now being dispersed and that the dispersal sites will cost about $250,000 per ship for dock rental and services. The Academies are ready sites for such distribution of RRF ships that can serve dually as training ships—as in the case of the Massachusetts training ship—thus saving that cost per year.

These training ships can presently be called upon on short notice to help meet our Nation's trooplift requirement. There are few ships to meet this national need other than the State Maritime Academy ships. These ships are strategically located around our national sea coast with free pier space and are not nested in a vulnerable Reserve Fleet mooring. They are cost-effectively being maintained by cheap labor (our students) with the States sharing expenses. This equation would appear to fit our Nation's budgetary problems today. What better deal could the taxpayers ask for! Loss of the ships at the Academies will not only impact on future officer training, this loss will also create an increase in necessary funds for maintenance/breakout of the present ships when they are retired to the Reserve Fleet. These ships are constantly being groomed at the campus piers now, ready to go. We request that they remain to meet our Nation's troop transport requirements in a national emergency.

By placing the present training ships in the RRF the need for activation or breakout exercise is automatically solved because they are operated every year. The cost of routine maintenance is heavily shared by the States thus further reducing the cost of RRF ships so assigned. The current average cost of a RRF ship runs about $750,000 which is not totally out of line with training ship maintenance costs.

The Navy has a mandated requirement for a sealift capability for 17,000 troops. The existing capability is far less than that. The closing of that requirement in the

RRF with ships which are assigned as training ships can achieve desired dispersal at cost savings and can reduce the maintenance cost of the RRF ship while increasing its readiness. Under such a concept, the training ships at the Academies would provide the dual need at a single reduced cost. The Massachusetts training ship this year will meet an RRF capability requirement and a training ship requirement and, because it is at Buzzards Bay, will save at least $250,000 of outporting costs and $100,000 of RRF operating costs.

The Academy Superintendents/Presidents urge that this cost-saving concept be utilized to the extent possible so that the training ships become no drain on Federal funds, but rather are a method to reduce costs of ships required for other purposes which are dispersed in a preferred basing mode.

We see the Maritime Administration walking away from its legislated mandate to support the American Merchant Marine, both as a trade force and a National defense element. No more Construction Differential Subsidy for ships with defense features, no more Operating Differential Subsidy for competitive strength, Navy growth in RRF and Military Sealift Command; the part that is our immediate concern is no more recruiting and training by State schools, no more state training/troopships.

With respect to the Federal assistance funds, there are certainly at least two questions that should be asked and answered before they are abandoned. They are, "What is the purpose of these Federal programs?" and "What will likely happen if they are terminated?" In the case of the Incentive Payments, the Maritime Administration and apparently the Office of Management and Budget think that these Incentive Payments are to create Merchant Marine Officers only in times of shortage; with no shortage, they should be stopped. The Incentive Payment is, however, tied to the Merchant Marine Reserve program. It provides the incentive for students to overload their academic program to take the required Naval Science core of courses and to commit to subsequent training and an eight year obligation to the Federal Government.

Although our Merchant Marine has been declining, it is important to note that the requirements for new officers is brighter now than it has been for years. The average age of the merchant officer sailing today is in the sixties. Numerous retirements are imminent. It is not uncommon for our Placement Offices to receive telephone calls for senior positions they can't fill. Our afloat employment of the recent graduating classes is about 40% while about 24% are employed in the industry ashore and another 10% go on active duty in the Navy, Coast Guard, NOAA, etc. This amounts to about three-quarters of our graduates involved in the Industry or the Armed Services with prospects getting better.

In the rational world, if any forced reduction in capacity should be mandated, it can be through some paring down of the U.S. Merchant Marine Academy at Kings Point and other MarAd programs. This methodology was utilized by the House Bill HR 4175. For instance, Kings Point has a larger dollar base—on the order of approximately $20 million per year. HR 4175 programs a 1.8% cut for Kings Point as opposed to a 24% cut for the State Academies. It should be pointed out that the $9 million saved by not funding the State Academies will affect 3,000 prospective Merchant Marine officers at the State Academies. An expense of approximately $20 million is planned for the 800 students at Kings Point. Kings Point is not considered by the Administration because it is owned and operated by the Administration. This position by the Maritime Administration and the Department of Transportation is indeed self-serving when the proposal is total elimination of the State School system.

For this particular Administration which is so adamant about having the Federal Government remove itself from unnecessary or inappropriate endeavors and return functions to the States, it certainly does not make sense to propose removing small Federal support from the states.

The total number of graduates per year from the six state and regional academies is about 700. From among those graduates who accept Reserve commissions, over 100 of these volunteer for active duty in the Navy or Coast Guard. Each of these 100 accessions is achieved at a maximum total cost in Student Incentive Payments of approximately $4,500 over four years, a considerable savings to the Nation over any other source of mariners fully qualified for immediate sea duty and leadership roles. This is our Nation's most cost-effective commissioning source. For our island nation, so dependent upon the sea and world commerce, this is a very valuable contribution to our security. Our students pay tuition and fees for their education, including training cruises, naval science courses, and attend eleven month academic years which deprive them of the opportunity for summer employment. They earn Federal licenses as well as degrees in a uniformed and disciplined environment. The respective states and industrial sources contribute the balance of academy expenses over tuition. The Federal Government's share, including student subsidies, ship maintenance and repair and fuel oil, is cost-effective. (See Appendix A)

This sharing of effort represents one of the best bargains available to the Government, and yet the Administration seeks to reduce the Maritime Education budget by not including support for the State Academies. This very small savings to the Federal Government imposes a severe training hardship on our institutions while reducing the incentive to develop an adequate Merchant Marine Reserve component of the U.S. Naval Reserve.

We submit that the continued existence of our State supported institutions assures the most economical, cost-effective method of producing Merchant Marine officers. We believe that our students return far more to the economy than they cost and that the survival of the State Academies/Colleges is in the national interest. We have been tasked with this responsibility for 112 years.

The Maritime Administration's budget proposal, if accepted, undermines the very core of this long-standing, cost-effective, state/student/Federal relationship.

The issues that we have described today are of extreme importance to our continued operation. The State Maritime Academies and Colleges at minimal Federal cost have produced and continue to train outstanding officers for service in the Merchant Marine, the U.S. Navy and Coast Guard, NOAA and other service-related organizations. We have appreciated your past support and trust that we may continue to receive your confidence and support in the future.

We request a Companion Senate Bill to House Bill HR 4175 so that the most cost-effective system of producing licensed Merchant Marine/Merchant Marine Reserve Officers will not be terminated. We totally support sharing the burden of reducing the Federal deficit and accept the 24% reduction in State Academy funds as contained in this funding concept. This, however, is the bare minimum required.

We would be pleased to assist you in any studies you may wish to undertake with regard to the issues that we have raised and would be happy to have the opportunity to discuss our situation with you and your staff at your convenience.

APPENDIX A.—FOUR-YEAR COST PER STUDENT ENROLLED FOR A STUDENT GRADUATING IN 1985

	Total number of graduates	SIP student costs [1]	Non-SIP student costs [1]	State costs [2]	Federal cost non-SIP graduate [3]	Federal cost SIP graduate [4]	Total Federal cost to educate
New York	229	$15,037	$19,837	$21,428	$12,864	$17,664	
Massachusetts	188	N/A	N/A	N/A	8,061	[5] 12,861	
Maine	145	20,868	25,668	20,489	14,225	19,025	
Texas	69	2,844	7,644	29,825	21,086	25,886	
California	112	10,771	15,571	29,467	12,220	17,020	
Great Lakes [6]	46	10,520	14,120	[7] 6,677	[7] 2,095	5,696	
Kings Point [8]	238						$68,862

[1] Includes cumulative tuition, room and board, uniforms required fees. The figure is $4,800 less for individuals receiving SIP.
[2] Does not include capital improvement or construction.
[3] Includes cumulative ship M&R, ship fuel funding and $100,000 grant.
[4] Includes cumulative ship M&R, ship fuel funding and $100,000 grant and SIP.
[5] No training ship in 1984 and 1985 thus no M&R costs.
[6] 3-year program. No federal cost for M&R or fuel.
[7] 3-year average (1983, 1984, 1985).
[8] 1984 figures supplied by the Maritime Administration.

N/A Not currently available.

Senator Stevens. That completes the hearing for today. Thank you very much.

[Whereupon, at 11:50 a.m. the meeting was adjourned.]

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